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No. 14]

NEW DELHI, SATURDAY, APRIL 7, 1990/CHAITRA 17, 1912

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह जलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-Section (ii)

(रक्षा मंत्रालय को छोड़ कर) भारत सरकार के मंत्रालयों द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications issued by the Ministries of the Government of India (other than
the Ministry of Defence)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 19 मार्च, 1990

अधिसूचना

का.आ. 828:—केन्द्रीय सरकार, दंड संहिता, 1973 (1974 का 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, श्री जे. एन. शेख, अधिवक्ता को श्री एस.एन. पारिख, विशेष न्यायाधीश, अहमदाबाद के न्यायालय में 5 मामलों तथा आर.सी. 02/79-अहमदाबाद, आर.सी. 12/89-अहमदाबाद, आर.सी. 2/85-अहमदाबाद, आर.सी. 2/86-अहमदाबाद, और आर.सी. 39/86-अहमदाबाद, तथा श्री ए.एन. दिवेकर, विशेष न्यायाधीश, भद्रा, अहमदाबाद के न्यायालय में 3 मामलों तथा आर.सी. 21/78-अहमदाबाद, आर.सी. 33/78-अहमदाबाद, और आर.सी. 5/79-अहमदाबाद (इन 6 मामलों में एक ही चार्जशीट तथा विशेष मामला नं. 10/82 फाइल हुई है।) में राज्य की ओर से पेश होने तथा अभियोजन का संचालन करने के लिए विशेष लोक अधिवक्ता नियुक्त करती है।

[संख्या 225/1/90-ए.पी.डी.-2]

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES &
PENSIONS

(Department of Personnel & Training)

New Delhi, the 19th March, 1990

S.O. 828.—In exercise of the powers conferred by Sub-section (8) of Section 24 of the Code of Criminal Procedure, 1973 (2 of 1974), the Central Government hereby appoints Shri Z. N. Shaikh, Advocate as Special Public Prosecutor to conduct prosecution of 5 cases viz. RC. 2/79-ABD, RC. 12/80-ABD, RC. 2/85-ABD, RC. 6/86-ABD and RC. 39/86-ABD in the Court of Shri M. S. Parikh, Spl. Judge, Ahmedabad and in 3 cases viz. RC. 21/78-ABD, RC. 33/78-ABD and RC. 5/79-ABD (In these 3 cases a single charge sheet has filed vide Spl. Case No. 10/82) in the Court of Shri A. N. Divecha, Special Judge, Bhandra, Ahmedabad.

[No. 225/1/90/AVD-II]

नई दिल्ली, 22 मार्च 1990

का.आ. 829—केन्द्रीय सरकार, दंड संहिता, 1973 (1974 का 2) की धारा 24 की उपधारा (8) द्वारा, प्रदत्त शक्तियों का प्रयोग करते हुए, श्री मनोहर राम व्यास, अधिवक्ता को दिल्ली विशेष स्थापन नियमित मामला संख्या 1/85, सी.आई.ए. (पी) राज्य बनाम कान सिंह भारी

तथा अन्य के, जो राजा मान सिंह और 2 अन्य व्यक्तियों को बीच में 21 फरवरी, 1985 को हुया से संबंधित हैं, सेशन न्यायालय अधिकृत सेशन न्यायालय, मथुरा (उ.प्र.) में अभियोजन के संचालन के लिए विशेष लोक अभियोजक नियुक्त करती हैं।

[संख्या 225/5/90-ए.वी.डी II]

जी. सीतारामन, अधिवक्ता सचिव

New Delhi, the 22nd March, 1990

O. 829.—In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (2 of 1974), the Central Govt. hereby appoints Shri Santosh Pal Tyagi, Advocate as special public prosecutor for conducting prosecution of the Delhi Special Police Establishment Regular case No. 1 of 85 CIU(P) State Vs. Kan Singh Bhati and others, relating to the murder of Raja Man Singh and two others in Deeg on the 21st day of February, 1985, in the court of Sessions Judge/Additional Sessions Judge, Mathura, (Uttar Pradesh), and the appellate courts at Allahabad.

[No. 225/5/90-AVD. II]

G. SITARAMAN, Under Secy.

वित्त मंत्रालय

(राजस्व विभाग)

नई दिल्ली, 2 अगस्त, 1989

(आयकर)

का.प्रा. 830:—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23-ग) के उपखंड (v) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा "केरल जैसूट सोसायटी, मालप्परम्बा, कालांकोट" को उक्त उपखंड के प्रयोजनार्थ कर निर्धारण वर्ष 1987-88 और 1989-90 के लिए अधिसूचित करती है।

[सं. 8424/का.सं. 197/66/87-आ. कर(नि.-1)]

MINISTRY OF FINANCE

(Department of Revenue)

New Delhi, the 2nd August, 1989

(INCOME-TAX)

S.O. 830.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of section 10 of the Income Tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Kerala Jesuit, Society, Malaparamba Calicut" for the purpose of the said sub-clause for the assessment years 1987-88 to 1989-90.

[No. 8424/F. No. 197/66/87-IT(AI)]

नई दिल्ली, 2 अगस्त, 1989

(आयकर)

का.प्रा.-831:—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23-ग) के उपखंड (v) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा "जगद्गुरु श्री संकराचार्य स्वामीयल श्री मातम् मस्तथानम्, कञ्चेपुरम्" को उक्त उपखंड के प्रयोजनार्थ कर-निर्धारण वर्ष 1989-90 के लिए अधिसूचित करती है।

[सं. 8486/का.सं. 197/180/89-आयकर(नि.-1)]

New Delhi, the 2nd November, 1989

(INCOME-TAX)

S.O. 831.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of section 10 of the Income-tax, 1961 (43 of 1961), the Central Government hereby notifies "Jagadguru Sri Sankaracharya Swamigal Sri Matam Samsthanam, Kancheepuram" for the purpose of the said sub-clause for the assessment year 1989-90.

[No. 8486/F. No. 197/180/89-IT(AI)]

(आयकर)

का.प्रा.-832:—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23-ग) के उपखंड (v) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा "श्री रामण अस्सामम्, थिरुवलमलाई" को उक्त उपखंड के प्रयोजनार्थ कर-निर्धारण वर्ष 1989-90 के लिए अधिसूचित करती है।

[सं. 8487/का.सं. 197/202/89-आयकर(नि.-1)]

(INCOME-TAX)

S.O. 832.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Sri Ramanasramam, Tiruvannamalai" for the purpose of the said sub-clause for the assessment year 1989-90.

[No. 8487/F. No. 197/202/89-IT(AI)]

(आयकर)

का.प्रा.-833:—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23-ग) के उपखंड (v) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा "थि ऑर्थोडॉक्स निरियन चर्च, कोट्टायम" को उक्त उपखंड के प्रयोजनार्थ कर-निर्धारण वर्ष 1988-89 और 1989-90 के लिए अधिसूचित करती है।

[सं. 8484/का.सं. 197/26/88-आयकर(नि.-1)]

(INCOME-TAX)

S.O. 833.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "The Orthodox Syrian Church, Kottayam for the purpose of the said sub-clause for the assessment years 1988-89 and 1989-90.

[No. 8484/F. No. 197/26/88-IT(AI)]

आयकर

का.प्रा.-834:—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23-ग) के उपखंड (v) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा "श्री नानक जिरा साहेब फाउण्डेशन, बीदर, कर्नाटक" को कर निर्धारण वर्ष 1989-90 के लिए उक्त उपखंड के प्रयोजनार्थ अधिसूचित करती है।

[संख्या 8481/का.सं. 197/141/89-आयकर(नि.-1)]

दलीप सिंह, विशेष कार्य अधिकारी

(INCOME-TAX)

S.O. 834.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Sri Nanak Jhira Saheb Foundation, Bidar, Karnataka" for the purpose of the said sub-clause for the assessment year 1989-90.

[No. 8481/F. No. 197/141/89-IT(AI)]

DALIP SINGH, Officer on Special Duty

नई दिल्ली, 28 फरवरी, 1990

प्रधान कार्यालय संस्थान

का.प्रा.-835:—केन्द्रीय प्रत्यक्ष कर बोर्ड (कार्य कर विनियमन) नियम, 1964 के नियम 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा भारतीय राजस्व सेवा (आयकर) के एक अधिकारी और भूतपूर्व मुख्य आयकर आयुक्त (प्रशा.), कलकत्ता, श्री ए.के. घोष को 21 फरवरी, 1990 के पूर्वार्ध में अपने प्रादेशों तक राजस्व विभाग के केन्द्रीय प्रत्यक्ष कर बोर्ड में सदस्य नियुक्त करती है।

[का.सं. ए-12026/8/90-प्रशा-1]

एन. दास, अधिवक्ता सचिव

New Delhi, the 28th February, 1990

HEADQUARTERS ESTABLISHMENT

S.O. 835.—In exercise of the powers conferred by Rule 3 of the Central Boards of Direct Taxes (Regulation of Business) Rules, 1964, the Central Government hereby appoints Shri A. K. Ghosh, an officer of the Indian Revenue Service (I.T.) and formerly posted as Chief Commissioner of Income-tax (Admn.), Calcutta, as Member in the Central Board of Direct Taxes in the Department of Revenue with effect from the forenoon of the 21st February, 1990 and until further orders.

[F. No. A-12026/8/90-Ad. I]

N. DAS, Under Secy.

भारत

नई दिल्ली, 28 मार्च, 1990

स्टाम्प

का.आ.-836—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उपधारा (1) के खंड (ब) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा भारत सरकार, वित्त मंत्रालय (राजस्व विभाग) की अधिसूचना सं. का.आ. 2217 दिनांक 23 अगस्त, 1989 में निम्नलिखित संशोधन करती है, अर्थात्:

उक्त अधिसूचना में, "चार करोड़ उनतीस लाख और उनतालीस हजार" शब्दों के स्थान पर "चार करोड़ तीस लाख" शब्दों को प्रतिस्थापित किया जाए।

[सं. 14/90-स्टाम्प-का.सं. 33/62/89-वि. कर]

ठाकुर दत्त, उप-सचिव

ORDER

New Delhi, the 26th March, 1990

STAMPS

S.O. 836.—In exercise of the powers conferred by clause (b) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby makes the following amendment in the notification of the Government of India, Ministry of Finance (Department of Revenue), No. S.O. 2217 dated 23rd August, 1989, namely:—

In the said notification, for the words "four crores twenty nine lacs and thirty nine thousand" the words "four crores thirty lacs" shall be substituted.

[No. 14/90-Stamp-F. No. 33/62/89-ST]

THAKUR DATT, Dy. Secy.

समाहर्तालय केन्द्रीय उत्पाद शुल्क एवं सीमा शुल्क

अधिसूचना सं. 42/1990

इन्दौर, 21 मार्च, 1990

का.आ.-837.—समाहर्तालय केन्द्रीय उत्पाद शुल्क, इन्दौर के श्री एम.एन. चक्रवर्ती, प्रबंधक समूह "ब" नियोजन प्रायु प्राप्त करने पर दिनांक 28-02-1990 को (अपराध में) शासकीय सेवा से निवृत्त हो गए।

[प.सं. II(3-8)गोप/89]

बालकृष्ण अग्रवाल, समाहर्ता

CENTRAL EXCISE COLLECTORATE

NOTIFICATION NO. 42/1990

Indore, the 21st March, 1990

S.O. 837.—Shri S. N. Chakravarti, Superintendent, Central Excise, Group 'B' of Indore Collectorate having attained the age of superannuation retired from Government service on 28-2-90 (A.N.).

[C. No. II(3)8-Con/89]

B. K. AGARWAL, Collector

बाणिज्य मंत्रालय

नई दिल्ली, 7 अप्रैल, 1990

का.आ. 838:—निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, मैसर्स अशोक लेयलैंड लिमिटेड, एनोरे, मद्रास-600057 में विनिर्मित गाडीबोर्दाइल के पुर्जे संघटक तथा उपसाधनों का निर्यात से पूर्व निरीक्षण करने के लिए, मैसर्स अशोक लेयलैंड लिमिटेड, को जिनका रजिस्ट्रिकृत कार्यालय 19 राजाजी सालाई, मद्रास-600001 में है, 21 मार्च, 1990 से तीन वर्ष की अवधि के लिए का.आ. 750 तारीख 21-03-1987 में अधिसूचित शर्तों के अधीन रहते हुए, अभिकरण के रूप में मान्यता देती है।

[फाइल सं. 5(2)/87-ईआईएण्डईपी]

MINISTRY OF COMMERCE

New Delhi, the 7th April, 1990

S.O. 838.—In exercise of powers conferred by sub-section (1) of Section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government hereby recognises for a further period of 3 years with effect from 21st March, 1990, M/s. Ashok Leyland Ltd. having their registered office at 19, Rajaji Salai, Madras-600001, as the agency, for inspection of Automobile spares, components and accessories manufactured at M/s. Ashok Leyland Ltd., Ennore, Madras-600057 prior to export, subject to the conditions notified vide S.O. 750 dated 21-3-1987.

[F. No. 5(2)/87-EI&EP]

का.आ. 839:—निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, मैसर्स अशोक लेयलैंड लिमिटेड एनोरे, मद्रास-600057 में विनिर्मित डायल इंजिन का निर्यात से पूर्व निरीक्षण करने के लिए, मैसर्स अशोक लेयलैंड लिमिटेड को जिनका रजिस्ट्रिकृत कार्यालय, 19, राजाजी सालाई, मद्रास-600001 में है, 21 मार्च, 1990 से तीन वर्ष की अवधि के लिए का.आ. 751 तारीख 21-03-1987 में अधिसूचित शर्तों के अधीन रहते हुए, अभिकरण के रूप में मान्यता देती है।

[फाइल सं. 5(2)/87-ईआईएण्डईपी]

S.O. 839.—In exercise of the powers conferred by sub-section (1) of Section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government hereby recognises for a further period of 3 years with effect from 21st March, 1990, M/s. Ashok Leyland Ltd., having their registered office at 19, Rajaji Salai, Madras-600001, as the agency, for inspection of diesel engines manufactured at M/s. Ashok Leyland Ltd., Ennore, Madras-600057 prior to export, subject to the conditions notified vide S.O. 751 dated 21-3-1987.

[F. No. 5(2)/87-EI&EP]

का.प्र. 840.—केंद्रीय सरकार, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 17 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, काजू की गिरियों का निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1986 का संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात्—

1. (1) इन नियमों का अंग्रेज़ी नाम काजू की गिरियों का निर्यात (क्वालिटी नियंत्रण और निरीक्षण) संशोधन नियम, 1990 है।

(2) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

2. काजू की गिरियों का निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1986 में, नियम 4 के स्थान पर निम्नलिखित नियम रखा जाएगा, अर्थात्—

4. निरीक्षण फीस :—(i) प्रति परेयन न्यूनतम 45 रुपए के अधीन रहते हुए, निर्यातकर्ता द्वारा अधिभरण को निम्न सारणी में उल्लिखित दरों पर निरीक्षण फीस का संदाय किया जाएगा, अर्थात् :—

सारणी

महँ	नियम 3 (क) के आक्षार पर किए गए निरीक्षण के लिए (परेयनानुसार निरीक्षण)	नियम 3 (ख) के आक्षार पर किए गए निरीक्षण के लिए (प्रक्रिया के दौरान क्वालिटी नियंत्रण प्रणाली)	
	(प्रति कि. ग्राम या उसके भाग के लिए पैसे)	(प्रति कि. ग्राम या उसके भाग के लिए पैसे)	
1	2	3	4
(1)	काजू की गिरियों के सभी ग्रेड (भूतो हुई और नमक लगी हुई काजू की गिरियों से भिन्न)	33	17
(2)	भूतो हुई और नमक लगी हुई काजू की गिरियाँ	47	24

(2) ऐसे विनिर्माता-निर्यातकर्ता जो राज्य राज्य सरकारों या संघ राज्य क्षेत्रों की सरकारों के पास लघु उद्योग एकता के रूप में रजिस्ट्रार हैं, प्रत्येक परेयन पर उपनियम (1) में विहित दरों के अनुसार संगणित निरीक्षण फीस का प्रति परेयन न्यूनतम 45 रुपए के अधीन रहते हुए, दस प्रतिशत की छूट के साथ निरीक्षण फीस का संदाय अधिभरण को करेंगे।

स्पष्टीकरण :—निर्यातकर्ता द्वारा प्रत्येक परेयन के लिए उपर उल्लिखित नियम के अनुसार संगणित संशोधन निरीक्षण फीस को रकम निकटतम रुपये में पूर्णांकित की जाएगी और इस प्रयोजन के लिए जहाँ ऐसी रकम में पैसे के रूप में रुपए का भाग है और ऐसा भाग 50 पैसे या उससे अधिक है, वहाँ उसे एक रुपए तक बढ़ा दिया जाएगा और यदि ऐसा भाग 50 पैसे से कम है तो उसे गिनती में नहीं लिया जाएगा।

[फाइल नं. 6(23)/86-ई आई एण्ड ई पी]

ए.के. चौधुरी, निदेशक

पाठ टिप्पण :—नूतन नियम का प्रा. 783 तारीख 1-3-1986 द्वारा प्रकाशित किए गए थे और का प्रा. 905(अ), 1986, 1988 का.प्रा. 682 और का.प्रा. 529 तारीख 18-3-89 द्वारा संशोधित किए गए थे।

S.O. 840.—In exercise of the powers conferred by section 17 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government hereby makes the following rules to amend the Export of Cashew Kernels (Quality and Inspection) Rules 1986, namely :—

1. (1) These rules may be called the Export of Cashew Kernels (Quality Control and Inspection) Amendment Rules, 1990.

(2) They shall come into force on the date of their publication in the official Gazette.

2. In the Export of Cashew Kernels (Quality Control and Inspection) Rules, 1986 for rule 4, the following rule shall be substituted namely :—

"4. Inspection Fee—(1) subject to a minimum of Rs. 45/- for each consignment, a fee at the rates mentioned in Table below shall be paid by the exporter to the Agency as inspection fee, namely :—

TABLE

Item	For inspection carried out on the basis of rule 3(a) (Consignmentwise Inspection)	For inspection carried out on the basis of rule 3(b) in process Quality Control System)	
	(Paise per kg. or part thereof)	(Paise per Kg. or part thereof)	
1	2	3	4
(1) All grades of Cashew Kernels (Other than Roasted & Salted Cashew Kernels)	33		17
(2) Roasted and Salted Cashew Kernels.	47		24

(2) Subject to the minimum of Rs. 45/- per consignment, manufacturers—exporters who are registered as small scale manufacturing units with the concerned Governments of States or Union Territories shall pay inspection fee to the Agency with a rebate of ten percent, of the inspection fee computed in accordance with the rates prescribed in sub-rule (1), on each consignment.

Explanation :—The amount of inspection fee computed in accordance with the above mentioned rule for each consignment payable by the exporter shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of rupee consisting of paise, then, if such part is fifty paise or more, it shall be increased to one rupee and if such part is less than fifty paise, it shall be ignored".

[F. No. 6/25/86-EI&EP]

A. K. CHAUDHURI, Director

Foot Note :—Principal rules were published vide S.O. 783, dated 1-3-1986 and amended by S.O. 905(E) of 1986, S.O. 682 of 1988 & S.O. 529 dated 18-3-89.

बाणिज्य मंत्रालय

(मुख्य नियंत्रक, आयात-निर्यात का कार्यालय)

घाटेश

नई दिल्ली, 16 मार्च, 1990

का. प्रा. 841—मै. यूनिट्रोप लिमिटेड, 1, इंडस्ट्रियल एरिया, एन आई टी फार्माबाद (हरियाणा) 1210001 का सामान्य मुद्रा क्षेत्र के अंतर्गत 12,09000/- रुपये के लिए एक आयात लाइसेंस नं. पी/डी/277384 दिनांक 19-7-89 उसके साथ संलग्न सूची में उल्लिखित कंपोनेंट्स के आयात के लिये दिया गया था।

2. फर्म ने उपर्युक्त ल.इसेस की सीमाशुल्क प्रयोजन प्रति की अनुलिपि जारी करने के लिए इस आधार पर आश्रित किया है कि इसकी मूल सीमाशुल्क प्रयोजन प्रति उनसे खो गई या गुम हो गई है। अग्रे यह भी उल्लेख किया गया है कि ल.इसेस को कस्टम्स, इंडिया गार्ड्स अन्तर्राष्ट्रीय इन्चार्ज अट्टा, नई दिल्ली में पंजीकृत कराया गया था और उसके मूल्य का आश्रित प्रयोग किया गया है और उस पर रु. 1009586/- का प्रयोग करना शेष है। अपने तर्क के समर्थन में पार्टी ने शपथ अधिकारी, फरीदाबाद (हरियाणा) के समक्ष विधिवत शपथ लेकर स्टाम्प कागज पर एक प्रत्यक्ष दाखिल किया है: तदनुसार मैं संतुष्ट हूँ कि उपर्युक्त आयात लाइसेंस की मूल सीमाशुल्क प्रयोजन प्रति फर्म से खो गई है/या गुम हो गई है।

3. यथासमर्थित आयात (नियंत्रण) आदेश, 1955 दिनांक 7-12-1955 की उपधारा 4 (ग) के अंतर्गत प्रवक्त शक्तियों का प्रयोग करते हुए मैमर्स युनिट्रॉन लिमिटेड, 1, इंडस्ट्रियल एरिया, एन आई टी फरीदाबाद को जारी किए गए आयात लाइसेंस से. पी. डी/2277384 दिनांक 19-7-1989 की मूल सीमाशुल्क प्रति एनडूद्वारा रद्द की जाती है।

4. फर्म को उक्त ल.इसेस की दूसरी प्रति अलग से जारी की जा रही है।

[स. सफल/एन. एम. 4/547/डी जी टी डी/ए. एम 90/एस एल एम]

से. कुजूर, उपमुख्य नियंत्रक, आयात-निर्यात
रुते मुख्य नियंत्रक, आयात निर्यात

(Office of the Chief Controller of Imports and Exports)

ORDER

New Delhi, the 16th March, 1990

S.O. 841.—M/s. Unitron Limited, I, Industrial Area, NIT, Faridabad (Haryana) 121001 has been granted an import licence No. P/D/2277384 dt. 19-7-89 for Rs. 12,09,000 for import of components as per list attached under CGA.

The firm has applied for issue of Duplicate Copy of the Customs Copy of the above mentioned licence, on the grounds that the original Customs copy of the licence has been lost/misplaced by them. It has further been stated that the licence has been registered with the Customs, IGI Airport, New Delhi and the licence has been utilised partly leaving a balance of Rs. 10,09,586.

In support of their contention, the party has filed an affidavit on Stamped paper duly sworn in before a Oath Commissioner Faridabad (Haryana). Accordingly I satisfied that the original Customs Copy of the above import licence has been lost/misplaced by the firm.

In exercise of the powers conferred under Sub. Clause 9(cc) of the Import (Control) Order 1955 dt. 7-12-55 as amended from time to time, the said Customs copy of the Import Licence No. P/D/2277384 dated 19-7-89 issued to M/s. Unitron Limited, I, Industrial Area, NIT Faridabad is hereby Cancelled.

A duplicate Copy of the said licence is being issued to the firm separately.

[No. Suppl/NS-4/547/DGTD/AM'90/SLS]

S. KUJUR, Dy. Chief Controller of Imports and Exports
For Chief Controller of Import and Exports.

उद्योग मंत्रालय

(सरकारी उद्यम विभाग)

नई दिल्ली, 20 मार्च, 1990

को.आ. 842.—सार्वजनिक परिमर (अनधिकृत वसूलकारों की वेवबली) अधिनियम 1971 (1971 का 40) की धारा 3 द्वारा प्रवक्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एनडूद्वारा निर्माजित सार्वजनिक कालम (1) में उल्लिखित अधिकारी को, जो सरकार के राजपत्रित अधिकारी के समकक्ष स्तर का अधिकारी है, उक्त अधिनियम के

प्रयोजनों के लिए संपत्ति अधिकारी नियुक्त करती है, और निदेश देती है कि उक्त अधिकारी उक्त संपत्ति के कालम (2) में विनिर्दिष्ट सार्वजनिक परिमरों के संबंध में अपने अधिकार क्षेत्र की सार्वजनिक सीमाओं के अन्तर्गत उक्त अधिनियम के द्वारा या के अधीन लपटा अधिकारियों का प्रवक्त शक्तियों का प्रयोग और सीपे गये कर्तव्यों का पालन करेगा।

नियुक्ति

अधिकारी का पदनाम सार्वजनिक परिमरों की श्रेणियां और अधिकार क्षेत्र की स्थानीय सीमाएं

महाप्रबंधक (प्रशासन एवकामिक) जेसप एंड कंपनी लिमिटेड,
जेसप एंड कंपनी लिमिटेड, 63, नेताजी सुभाष रोड, कलकत्ता-700001
63, नेताजी सुभाष रोड, कलकत्ता-700001 से संबंधित या इसके द्वारा या इसकी ओर से, भारत में कहीं भी स्थित, कार्यालय या रिहायशी प्रयोजनों हेतु लिये गये सभी परिमर।

[फा. सं. 6(46)/82-पी ई.-III]

सतीश कुमार, निदेशक

MINISTRY OF INDUSTRY

(Department of Public Enterprises)

New Delhi, the 20th March, 1990

S.O. 842.—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Un-authorised Occupants) Act, 1971, (40 of 1971), the Central Government hereby appoints the Officer mentioned in column (1) of the Table below being an Officer equivalent to the rank of gazetted Officer of Government, to be estate officer for the purposes of the said Act, and directs that the said officer shall exercise the powers conferred, and perform the duties imposed on estate Officers, by or under the said Act, within the local limits of his jurisdiction in respect of the public premises specified in column (2) of the said Table.

TABLE

Designation of the Officer.	Categories of public premises and local limits of jurisdictions.
(1)	(2)
General Manager (Administration and Personnel) Jessop & Co. Ltd, 63 Netaji Subash Road Calcutta-700001.	All premises belong to or taken on lease by or on behalf of Jessop and Co. Ltd., 63 Netaji Subhash Road, Calcutta-700001 for Office or residential purposes situated any-where in India.

[F. No. 6(46)/82-PE-III]

SATISH KUMAR, Director

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 1 मार्च, 1990

का.आ. 843.—यतः पेट्रोलियम और खनिज पाइपलाइन भूमि में उपयोग के अधिकार का अर्जन अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना का.आ.सं. 21/89 तारीख 9-9-89 द्वारा केन्द्रीय सरकार ने उक्त अधिसूचना से सलग अनुमोदित

विनिर्दिष्ट भूमियों में उसी के अधिकार को पाहलानों को बिछाने के लिए अर्जित करने का अपना आशय घोषित कर दिया था।

और यतः सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दी है।

और आगे, यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिनियम से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है।

अब, अतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिनियम में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाहलानों बिछाने के प्रयोजन के लिए एतद्वारा अर्जित किया जाना है।

और आगे उस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निर्देश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में निहित होने की बजाय तेल और प्राकृतिक गैस आयोग में, सभी बाधाओं से मुक्त रूप में, घोषणा के प्रकाशन की इस तारीख को निहित होगा।

अनुसूची

चोकरी टी बिन्दु से जिफो तक पाईप लाईन बिछाने के लिए।

राज्य : गुजरात जिला : वडोदरा तालुका : पावदा

गांव	सर्वेक्षण सं.	हे.	आर	सेंटी.
ता.पदा	कार्ट ट्रैक	0	01	80
	172	0	03	15
	165	0	02	50
	171	0	04	70
	170	0	05	00
	169	0	05	32
	168	0	05	00
	175	0	18	00
	149	0	31	40
	कार्ट ट्रैक	0	01	00
	148	0	17	00
	147	0	12	50
	कार्ट ट्रैक	0	01	00

[सं. O-11027/65/89-ना एन जा अ-III]

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 1st March, 1990

S.O. 843.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. No. 2139 dated 9-9-89 under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in lands specified in the schedule appended to that notification for the purpose of laying pipeline.

And, whereas, the Competent Authority has under sub-section (1) of the Section 6 of the said Act, submitted report to the Government;

And, further, whereas the Central Government has, after considering the said report decided to acquire the right of user in the lands in the schedule appended to this notification;

Now, therefore, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipeline;

And, further, in exercise of power conferred by sub-section (4) of the section, the Central Government directs that the right of user in the said lands shall instead of vesting in Central Government vests on this date of the publication of this declaration in the Oil and Natural Gas Commission free from encumbrances.

SCHEDULE

Pipeline from Chokari T. Point To Gipco.

State : Gujarat District : Vadodara Taluk Padra

Village	Block No.	Hec- tare	Are	Centi- tiare
Pavda	Cart track	0	01	80
	172	0	03	15
	165	0	02	50
	171	0	04	70
	170	0	05	00
	169	0	05	32
	168	0	05	00
	175	0	18	00
	149	0	31	40
	Cart track	0	01	00
	148	0	17	00
	147	0	12	50
	Cart track	0	01	00

[No. O-11027/65/89-ONG D-III]

का.या. 844.—यतः पेट्रोलियम और खनिज पाहलानों भूमि में उपयोग के अधिकार का अर्जित अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिनियम का.या.सं. 2520 तारीख 7-10-89 द्वारा केन्द्रीय सरकार ने उस अधिनियम से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उसी के अधिकार को पाहलानों को बिछाने के लिए अर्जित करने का अपना आशय घोषित कर दिया था।

और यतः सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दी है।

और आगे, यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिनियम से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है।

अब अतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिनियम में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाहलानों बिछाने के प्रयोजन के लिए एतद्वारा अर्जित किया जाना है।

और आगे उस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निर्देश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार से निहित होने की बजाय तेल और प्राकृतिक गैस आयोग में, सभी बाधाओं से मुक्त रूप में, घोषणा के प्रकाशन के तारीख को निहित होगा।

अनुसूची

जी.एन.बी.एफ. से जी.एन.ए.एफ. तक पादरा लाइन बिछाने के लिए
राज्य: गुजरात जिला: भरुच तालुका: जंबुपुर

गांव	ब्लाक नं.	हे	आर.	सेंटी.
खानपुर	1816	00	92	75
	1817	00	05	85

[नं. O-11027/90/89-ओ एन जी डी-III]

के.सी. कटोच, डेस्क अधिकारी

S.O. 844.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. No. 2520 dated 7-10-89 under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in lands specified in the schedule appended to that notification for the purpose of laying pipeline.

And, whereas, the Competent Authority has under sub-section (1) of Section 6 of the said Act, submitted report to the Government;

And, further, whereas the Central Government has, after considering the said report decided to acquire the right of user in the lands in the schedule appended to this notification;

Now, therefore, in exercise of the power conferred by sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipeline;

And, further, in exercise of power conferred by sub-section (4) of the section, the Central Government directs that the right of user in the said lands shall instead of vesting in Central Government vests on this date of the publication of this declaration in the Oil and Natural Gas Commission free from all encumbrances.

SCHEDULE

Pipeline from GNBF To GNAQ

State : Gujarat District : Bharuch Taluka : Jambusa

Village	Block No.	Hec-tare	Are	Centiare
Khanpur	1816	00	92	75
	1817	00	05	85

[No. O-11027/90/89-ONGD. III]

K.C. KATOCH, Desk Officer

नई दिल्ली, 9 मार्च, 1990

का.प्र. 845.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में कृप. नं. 11 से पादरा ई.पी.एन. तक पेट्रोलियम के परिवहन के लिए पाइपलाइन तेल तथा प्राकृतिक गैस आयोग द्वारा बिछाई जानी चाहिए।

और, अतः, यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एनएसईए अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः, अतः, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग का अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आग्रह एनएसईए घोषित किया है।

वर्णन कि उक्त भूमि में बिचबूझ कोई व्यक्ति, उस भूमि के नीचे पाइप लाइन बिछाने के लिए आशेष सभ्य प्राधिकारी, तेल तथा प्राकृतिक गैस आयोग, निर्माण और देखभाल प्रभाग मकरपुरा रोड, वडोदा-9 को इस अधिनियम की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आशेष करने वाला हर व्यक्ति निम्नलिखित: यह भी कथन करेगा कि क्या वह चाहता है कि उसकी मुनशई व्यक्तिगत रूप से उसे या किसी विशिष्ट व्यवसायी को माफ़े।

अनुसूची

कृप. नं. 11 से पादरा ई.पी.एन. तक पाइप लाइन बिछाने के लिए।
राज्य: गुजरात जिला: वडोदरा तालुका: पादरा

गांव	सर्वे नं.	हेक्टेयर	आर.	सेंटिहर
पादरा	1116/1	0	02	40
	1120	0	18	24
	1122	0	01	40
काटेंद्रिक		0	02	88
	1031	0	14	40
	1029	0	06	24
	1028	0	06	24
	1027	0	06	24
	1041	0	09	20
	975	0	11	20
	976	0	06	40
	976	0	06	40
	974	0	00	50
	965	0	01	50

[नं. O-11027/29/90-ओ एन जी डी-III]

New Delhi, the 9th March, 1990

S.O. 845.—Whereas it appears to the Central Government that it is necessary in the public interest for the transport of petroleum from Well No. 11 to Padra EPS in Gujarat State pipeline should be laid by the Oil and Natural Gas Commission.

And, whereas, it appears that for the purpose of laying such pipeline, it is necessary to acquire that right of user in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein:

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil and Natural Gas Commission, Construction and Maintenance Division, Makarpura Road, Vadodra-390009.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal Practitioner.

SCHEDULE

Pipeline from Well-11 to Padra EPS.

State: Gujarat District : Vad odara Taluka : Padra

Village	Survey No.	Hec- tare	Are	Centiare
Padra	1116/1	0	02	40
	1120	0	18	24
	1122	0	01	40
	Cart track	0	02	88
	1031	0	14	40
	1029	0	06	24
	1028	0	06	24
	1027	0	06	24
	1041	0	09	20
	975	0	11	20
	976	0	06	40
	973	0	06	40
	974	0	00	50
	963	0	01	50

[No. O-11027/29/90-ONG. D. II]

का.प्र. 846.—यह पेट्रोलियम और खनिज पाइपलाइन भूमि में उपयोग के अधिकार का अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना का.प्र.सं. 869 तारीख 16-3-89 द्वारा केन्द्रीय सरकार ने उक्त अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग के अधिकार को पाइपलाइनों को बिछाने के लिए अर्जित करने का अर्पण आशय घोषित कर दिया था।

और, यह, सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

और, आगे, यह, केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है।

अब, यह, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइपलाइन बिछाने के प्रयोजन के लिए एतद्वारा अर्जित किया जाता है।

और आगे उक्त धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निर्देश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में निहित होने की बजाय तेल और प्राकृतिक गैस आयोग में, सभी बाधाओं से मुक्त रूप में, घोषणा के प्रकाशन की इस तारीख को निहित होगा।

अनुसूची

पाइपलाइन के लिये पेट्रोलियम और खनिज पाइपलाइन बिछाने के लिए
राज्य : गुजरात जिला : मेहसाणा तालुका : कडी

विव	सर्वे नं.	हेक्टेयर धार.	सेंटियर
लक्ष्मणपुरा	461	0	12 75
	458	0	11 25
	457	0	18 75
	183	0	09 00
	185	0	27 00
	186/4	0	00 30
	186/3	0	11 55
	186/2	0	14 40
	186/1/फि	0	05 55
	186/1/फि	0	14 25
	187	0	41 00
	200	0	00 20
	196	0	00 20
	194	0	09 00

[सं. O-11027/35/89-ओ एन जॉ डी-III]

S.O. 846.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. No. 869 dated 16-3-89 under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in lands specified in the schedule appended to that notification for the purpose of laying pipeline.

And, whereas, the Competent Authority has under sub-section (1) of the Section 6 of the said Act, submitted report to the Government;

And, further, whereas the Central Government has, after considering the said report decided to acquire the right of user in the lands in the schedule appended to this notification;

Now, therefore, in exercise of the power conferred by sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipeline;

And, further, in exercise of power conferred by sub-section (4) of the section, the Central Government directs that the right of user in the said lands shall instead of vesting in Central Government vests on this date of the publication of this declaration in the Oil and Natural Gas Commission free from all encumbrances.

SCHEDULE

Pipeline from Zalora GGS I to Jn. Point.

State : Gujarat District : Mehsana Taluka : Kadi

Village	Survey No.	Hec- tare	Are	Centiare
1	2	3	4	5
Laxmanpura	461	0	12	75
	458	0	11	25
	457	0	18	75
	183	0	09	00

1	2	3	4	5
	185	0	27	00
	186/4	0	00	30
	186/3	0	11	55
	186/2	0	14	40
	186/1/P	0	05	55
	186/1/P	0	14	25
	187	0	41	00
	200	0	00	20
	196	0	00	20
	194	0	09	00

[No. O-11027/35/89-ONG. D. III]

का.प्र. 847.—यतः पेट्रोलियम और खनिज पाइपलाइन भूमि में उपयोग के अधिकार का अर्जन अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना का.प्र.सं. 2141 तारीख 2-8-89 द्वारा केन्द्रीय सरकार ने उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग के अधिकार को पाइपलाइनों को बिछाने के लिए अर्जित करने का अपना आशय घोषित कर दिया था।

और यतः सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

और आगे यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करन के पश्चात् इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है।

अब, अतः, उक्त अधिनियम की धारा 6 की उपधारा (1) के द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइपलाइन बिछाने के प्रयोजन के लिए एतद्वारा अर्जित किया जाता है।

और, आगे, उस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निर्देश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में निहित होने की बजाय तेल और प्राकृतिक गैस आयोग में, सभी धाराओं से मुक्त रूप में, घोषणा के प्रकाशन के, इस तारीख को निहित होगा।

अनुसूची

ई.पी.एन. नन्दासन से एन.के.सी.टी.एफ. तक पाइप लाइन बिछाने के लिए।

राज्य : गुजरात जिला : मेहसाना तालुका : कर्डी

गांव	सर्वे. नं.	हेक्टेयर	आर.	सेंटियर
1	2	3	4	5
धोलासन	76/पा	0	01	62
	76/पा	0	15	00
	34	0	60	15
	32	0	01	62
	33	0	14	56
	31	0	18	00
	30	0	16	80
	26	0	32	40
	कार्ट ट्रैक	0	02	60

1	2	3	4	5
	274	0	58	00
	278	0	04	20
	277	0	14	60
	279	0	27	00
	263	0	88	65
	264/1	0	07	60
	264	0	20	40

[सं. O-11027/56/89-ओ एन जी डी-III]

S.O. 847.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. No. 2141 dated 2-8-89 under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in lands specified in the schedule appended to that notification for the purpose of laying pipeline.

And, whereas, the Competent Authority has under sub-section (1) of Section 6 of the said Act, submitted report to the Government;

And, further, whereas the Central Government has, after considering the said report decided to acquire the right of user in the lands in the schedule appended to this notification;

Now, therefore, in exercise of the power conferred by sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipeline;

And, further, in exercise of power conferred by sub-section (4) of the section, the Central Government directs that the right of user in the said lands shall instead of vesting in Central Government vests on this date of the publication of this declaration in the Oil and Natural Gas Commission free from all encumbrances.

SCHEDULE

Pipeline from EPS Nandasan to NK CTF.

State : Gujarat District : Mehsana Taluka : Kadi

Village	Survey No.	Hec-tare	Are	Cen-tiare
Dholasan	76/P	0	01	62
	76/P	0	15	00
	34	0	60	15
	32	0	01	62
	33	0	14	56
	31	0	18	00
	30	0	16	80
	26	0	32	40
	Cart track	0	02	60
	274	0	58	00
	278	0	04	20
	277	0	14	60
	279	0	27	00
	263	0	88	65
	264/1	0	07	60
	264	0	20	40

[No. O-11027/56/89-ONG. D. III]

का. प्रा. 848.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में जी.एन.पी.से ई.पी.एस तक पेट्रोलियम के परिवहन के लिये पाइपलाइन तेल तथा प्राकृतिक गैस प्रायोग द्वारा बिछाई जानी चाहिए।

और यतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एतद्वाक्य अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्द्वारा घोषित किया है।

बशर्ते कि उक्त भूमि में हितवद्ध कोई व्यक्ति, उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप सक्षम प्राधिकारी, तेल तथा प्राकृतिक गैस प्रायोग, निर्माण और देखभाल प्रभाग, मकरपुरा रोड, बड़ौदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्टः यह भी कथन करेगा कि क्या वह यह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी बिधि व्यवसायी की मार्फत।

अनुसूची

जी.एन.पी. से ई.पी.एस. तक पाइप लाइन बिछाने के लिए
राज्य : गुजरात जिला : धरुच तालुका : वागर

गाँव	ब्लॉक नं.	हेक्टेयर	घार	सेन्टीयर
गंधार	322/ए-बी	1	69	39

[सं. ओ-11027/35/90-ओ एन जी डी-III]

S.O. 848.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from GNAP to EPS in Gujarat State pipeline should be laid by the Oil and Natural Gas Commission.

And, whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire that right of user in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein :

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil and Natural Gas Commission, Construction and Maintenance Division, Makarpura Road, Vadodara-390009.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal Practitioner.

SCHEDULE

Pipeline from GNAP To E.P.S.

State : Gujarat District : Bharuch Taluka : Vagra

Village	Block No.	Hec- tare	Are	Centi- tiare
Gandhar	322/A-B	1	69	39

[No. O-11027/35/90-ONG. D. III]

का. प्रा. 849.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में जी.एन.पी.से ई.पी.एस. तक पेट्रोलियम के परिवहन के लिये पाइपलाइन तेल तथा प्राकृतिक गैस प्रायोग द्वारा बिछाई जानी चाहिए।

और यतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के लिए एतद्वाक्य अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्द्वारा घोषित किया है।

बशर्ते कि उक्त भूमि में हितवद्ध कोई व्यक्ति, उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप सक्षम प्राधिकारी, तेल तथा प्राकृतिक गैस प्रायोग, निर्माण और देखभाल प्रभाग, मकरपुरा रोड, बड़ौदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्टः यह भी कथन करेगा कि क्या वह यह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी बिधि व्यवसायी की मार्फत।

अनुसूची

जी.एन.पी.एफ. (7) से ई.पी.एस. तक पाइप लाइन बिछाने के लिए
राज्य : गुजरात जिला : धरुच तालुका : वागरा

गाँव	ब्लॉक नं.	है.	घार	सेन्टीयर
हान्चवेल	284	0	44	72

[सं. ओ-11027/34/90-ओ एन जी डी-III]

S.O. 849.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from GNDF (7) to EPS in Gujarat State pipeline should be laid by the Oil and Natural Gas Commission.

And, whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire that right of user in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein :

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil and Natural Gas Commission, Construction and Maintenance Division, Makarpura Road, Vadodara-390009.

SCHEDULE

Pipeline from GNDF (7) to EPS.

State : Gujarat District : Bharuch Taluka : Vagra

Village	Block No.	Hec- tare	Are	Centi- tiare
hanchwel	284	0	44	72

[No. O-11027/34/90-ONG. D. III]

का.आ. 850.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में सी पी एफ से ई पी एम तक पेट्रोलियम के परिवहन के लिये पाइपलाइन तेल तथा प्राकृतिक गैस आयोग द्वारा बिछाई जानी चाहिए।

और यतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एतद्पावद्ध अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आग्रह एतद्द्वारा घोषित किया है।

बशर्ते कि उक्त भूमि में हितबद्ध कोई व्यक्ति, उस भूमि के नीचे पाइप लाइन बिछाने के लिए आशेष सक्षम प्राधिकारो, तेल तथा प्राकृतिक गैस आयोग, निर्माण और देखभाल प्रभाग, मकरपुरा रोड, बड़ोदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आशेष करने वाला हर व्यक्ति विनिश्चितः यह भी कथन करेगा कि क्या वह यह चाहता है कि उसको मुनबाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत।

अनुसूची

सी.पी.एफ. से ई पी एफ तक पाइप लाइन बिछाने के लिए

राज्य : गुजरात

जिला : वरुच

तालुका : बाजरा

गांव स्ल/क नं. हे. आर. सेंटोयर

1	2	3	4	5
वाचवेल	931	0	03	20
	932	0	50	77
	933	0	44	27
	930	0	23	35
	929	0	09	60
	928	0	10	80
	754	0	20	16
	743	0	46	08
	753	0	82	46
	744	0	61	44
	752	0	22	00
	679	0	40	00
	678	0	04	00
	680	0	70	50
	676/ए/बी	0	80	50
	684	0	04	59
	683	0	68	00
	687	0	52	00
	631	0	31	32
	636	0	01	68
	688	0	00	30

1	2	3	4	5
	634	0	62	72
	635	0	34	47
	633	0	01	08
	632	0	00	81
	640	0	65	25
	641	0	64	00
	517	0	25	00
	516	0	32	00
	515	0	65	00
	511	0	49	50
	463	0	42	00
	461/ए/बी	0	32	00
	472	0	19	50
	473	0	08	37
	474	0	93	40
	काटेदूक	0	08	44
	405	1	18	75
	406	0	12	80
	396	0	91	25
	398	0	01	15
	397	0	03	60
	391	0	51	42
	1324	0	23	04
	1327	0	41	60
	1326	0	39	06
	1325	0	63	50
	390	0	27	50
	389	0	10	24
	282	10	55	06
	284	4	90	00

[सं. O-11027/33/90-प्रो एन जे(डी)-III]

S.O. 850.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from CPF to EPS in Gujarat State pipeline should be laid by the Oil and Natural Gas Commission.

And, whereas, it appears that for the purpose of laying such pipeline, it is necessary to acquire that right of user in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein:

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil and Natural Gas Commission, Construction and Maintenance Division, Makarpura Road, Vadodara-390009.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal Practitioner.

SCHEDULE

Pipeline from C.P.F. To E.P.F.

State : Gujarat District : Bharuch Taluka : Vagra

Village	Block No.	Hec- tare	Are	Centi- are
1	2	3	4	5
Chanchwel	931	0	03	20
	932	0	50	77
	933	0	44	27
	930	0	23	35
	929	0	09	60
	928	0	10	80
	754	0	20	16
	743	0	46	08
	753	0	82	46
	744	0	61	44
	752	0	22	00
	679	0	40	00
	678	0	04	00
	680	0	70	50
	676/A/B	0	80	50
	684	0	04	59
	683	0	68	00
	687	0	52	00
	631	0	31	32
	636	0	01	68
	688	0	00	30
	634	0	62	72
	635	0	34	47
	633	0	01	08
	632	0	00	81
	640	0	65	25
	641	0	64	00
	517	0	25	00
	516	0	32	00
	515	0	65	00
	511	0	49	50
	463	0	42	00
	461/A/B	0	32	00
	572	0	19	50
	473	0	08	43
	474	0	93	47
Cart track		0	08	70
405	1	18	87	
406	0	12	55	
396	0	91	20	
398	0	01	51	
397	0	03	60	
391	0	51	42	
1324	0	23	04	
1327	0	41	60	
1326	0	39	06	
1325	0	63	50	
390	0	27	50	
389	0	10	24	
282	10	55	06	
284	4	90	00	

का.भा. 851.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में के.एन.के. फेस-II तक पेट्रोलियम के परिवहन के लिये पाइपलाइन तेल तथा प्राकृतिक गैस प्रायोग द्वारा बिछाई जानी चाहिए।

और यतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एतद्वारा अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अन्न पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।

बशर्ते कि उक्त भूमि में हितबद्ध कोई व्यक्ति, उस भूमि के मोचे प.इप लाइन बिछाने के लिए आशेष सक्षम प्राधिकारी, तेल तथा प्राकृतिक गैस प्रायोग, निर्माण और देखभाल प्रभाग, मकरपुरा रोड, बड़ौदा-8 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आशेष करने वाला हर व्यक्ति विनिश्चितः यह भी कथन करेगा कि क्या वह यह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की भावसे।

अनुसूची

के.एन.के. फेस-II की पाईप लाईन बिछाने के लिए
राज्य : गुजरात जिला : खेड़ा तालुका : पेटलाव

गांव	ब्लाक नं.	हेक्टर	भार.	सेटीयर
संजाया	312	0	06	90
कार्टट्रैक		0	00	80
	297	0	09	10
कार्टट्रैक		0	01	40
	302	0	01	25
	300	0	15	75
	307	0	07	33
	308	0	08	50
	306	0	01	17
	315	0	06	40
	314	0	08	60
	313	0	05	20
	311	0	08	80

[सं. O-11027/26/90-ओ एन जो डी-III]

S.O. 851.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from KNK Phase II in Gujarat State pipeline should be laid by the Oil and Natural Gas Commission.

And, whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire that the right of user in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein:

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to

the laying of the pipeline under the land to the Competent Authority, Oil and Natural Gas Commission, Construction and Maintenance Division, Makarpura Road, Vadodara-390009.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal Practitioner.

SCHEDULE

Pipeline for K N K Phase II

State : Gujarat Distt : Kheda Taluka : Petlad

Village	Block No.	Hec- tare	Are	Centi- tiare
Sanjaya	312	0	06	90
	Cart track	0	00	80
	297	0	09	10
	Cart Track	0	01	40
	302	0	01	25
	300	0	15	75
	307	0	07	33
	308	0	08	50
	306	0	01	17
	315	0	06	40
	314	0	06	60
	313	0	05	20
	311	0	06	80

[No O-11027/26/90-ONG-D III]

का. भा. 852.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में पश्चिम शोभासन-2 से शोभासन-3 तक पेट्रोलियम के परिवहन के लिए पाइप-लाइन तैयार तथा प्राकृतिक गैस आयोग द्वारा बिछाई जानी चाहिए।

और अतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एतद्विषयक अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइप लाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) का धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना प्रणया एतद्विषयक घोषित किया है।

बशर्ते कि उक्त भूमि में हितबद्ध कोई व्यक्ति, उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप सक्षम अधिकारी, तैल तथा प्राकृतिक गैस आयोग, निर्माण और देखभाल प्रभाग, मकरपुरा रोड, वडोदा-9 को इस अधिसूचना का तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति बिलिबिलिटः यह भी कथन करेगा कि क्या वह यह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी को मार्फत।

अनुसूची

पश्चिम शोभासन-2 से; शोभासन-3 तक पाइप लाइन बिछाने के लिए
राज्य : गुजरात जिला एवं तालुका : मेहसाणा

गांव	मब्ले नं.	हेक्टार	घर	सेन्टीमिटर
1	2	3	4	5
शोभासन	387/2	0	08	88
	387/3	0	08	04

1	2	3	4	5
	366	0	04	44
	367/1/2	0	06	96
	370	0	04	68
	371 } 372 }	0	04	80
	कार्ट ट्रैक	0	00	84
	386	0	01	92
	387	0	03	12
	385	0	14	16
	388	0	00	75
	392	0	02	52
	473	0	01	50
	474	0	07	20
	479	0	07	92
	483	0	03	00
	485	0	10	32
	482	0	04	56
	1	0	10	80
	कार्ट ट्रैक	0	01	80
	3	0	01	20
	7	0	10	90
	8	0	06	00
	73	0	14	88
	74	0	06	72
	77	0	05	04
	87	0	12	60
	85	0	10	08

[सं. O-11027/27/90-ओ एन जी डी-III]

S.O. 852.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from West SOB-2 to SOB-3 in Gujarat State pipeline should be laid by the Oil and Natural Gas Commission.

And, whereas, it appears that for the purpose of laying such pipeline, it is necessary to acquire that right of user in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein:

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil and Natural Gas Commission, Construction and Maintenance Division, Makarpura Road, Vadodara-390009.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal Practitioner.

SCHEDULE

Pipeline from West SOB. 2 to SOB-3.

State : Gujarat District & Taluka : Mehsana

Village	Survey No.	Hec-tare	Are	Centi-tiare
1	2	3	4	5
Sobhasan	357/2	0	08	88
	357/3	0	08	04
	366	0	04	44
	367/1/2	0	06	96
	370	0	04	68
	371 }	0	04	80
	372 }			
	Cart track	0	00	84
	386	0	01	92
	387	0	03	12
	385	0	14	16
	388	0	00	75
	392	0	02	52
	473	0	01	50
	474	0	07	20
	479	0	07	92
	483	0	03	00
	485	0	10	32
	482	0	04	56
	1	0	10	80
		0	01	80
	Cart track	0	01	20
	3			
	7	0	10	90
	8	0	06	00
	73	0	14	88
	74	0	06	72
	77	0	05	04
	87	0	12	60
	85	0	10	08

[No. O-11027/27/90-ONG-D-III]

का.प्र. 853.—यस: केन्द्रिय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में गांधार से धुवारण तक पेट्रोलियम के परिवहन के लिए पाइप लाइन तेल तथा प्राकृतिक गैस आयोग द्वारा बिछाई जानी चाहिए।

और यतः यह प्रतीत होता है कि ऐसा साइनों को बिछाने के प्रयोजन के लिए एतदुपायध अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइप लाइन (भूमि में उपयोग के अधिकार का अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रिय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।

यद्यपि कि उक्त भूमि में हितवादी कोई व्यक्ति, उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप सक्षम प्राधिकारी तेल तथा प्राकृतिक गैस आयोग, निर्माण और देखभाल प्रभाग, मकरपुरा रोड, बड़ोदा-9, को इस अधिसूचना को तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्ट: भी कथन करेगा कि क्या वह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत।

अनुसूची

गांधार से धुवारण तक पाइप लाइन बिछाने के लिए।

राज्य : गुजरात जिला : खेड़ा तालुका : बोरसद

गांव	सर्वे. नं.	है.	घार	सन्टीयर
कालू	69/2	0	01	00
	69/3	0	12	11
	69/4	0	05	04
	69/5	0	02	48

[सं.-O-11027/25/90-ओ एन जो डी-III]

S.O. 853.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from Gandhar to Dhuwaran in Gujarat State pipeline should be laid by the Oil and Natural Gas Commission.

And, whereas, it appears that for the purpose of laying such pipeline, it is necessary to acquire that right of user in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein:

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil and Natural Gas Commission, Construction and Maintenance Division, Makarpura Road, Vadodara-390009.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal Practitioner.

SCHEDULE

Pipeline from Gandhar to Dhuwaran.

State : Gujarat District : Kheda Taluka : Borsad

Village	Survey No.	Hec-tare	Are	Centi-tiare
Kalu	69/2	0	01	00
	69/3	0	12	11
	69/4	0	05	04
	69/5	0	02	48

[No. O-11027/25/90-ONG. D-III]

का.प्रा. 854:—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में एन. के. जी जी एन-II से एन-के-बी टी एक तक पेट्रोलियम का परिवहन के लिए पाइप लाइन तेल तथा प्राकृतिक गैस आयोग द्वारा बिछाई जाना चाहिए।

और यतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के लिए एतदुपाय अनुसूची में वर्णित भूमि में उपयोग आ अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइप लाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।

बशर्ते कि उक्त भूमि में हितबद्ध कोई व्यक्ति, उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप, सक्षम प्राधिकारी, तेल तथा प्राकृतिक गैस आयोग, निर्माण और देखभाल प्रभाग, मकरपुरा रोड बडोदा-9 को इस अधिसूचना को तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्ट: यह भी कथन करेगा कि क्या वह वह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत।

अनुसूची

एन के जी जी एस II से एन के बी टी एक तक पाइप लाइन बिछाने के लिए लिए।

राज्य : गुजरात जिला : मेहसाणा तालुका : कडी

गांव	सर्वे नं.	हे.	आर.	सेन्टी
चालामन	114/2	0	09	12
	114/3	0	08	52
	86/1	0	01	20
	86/2	0	11	40
	86/3	0	05	64
	88	0	14	40
	87	0	03	60
	कार्ट ट्रैक	0	00	84
	92	0	09	84
	95	0	04	20

[सं. O-11027/30/90-प्रो एन जी डी, III]

S.O. 854.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from NK. GGS-II to NK. CTF in Gujarat State pipeline should be laid by the Oil and Natural Gas Commission.

And, whereas, it appears that for the purpose of laying such pipeline, it is necessary to acquire that right of user in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein :

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil and Natural Gas Commission, Construction and Maintenance Division, Makarpura Road, Vadodra-390009.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal Practitioner.

SCHEDULE

Pipeline from N-K GGS II to NK CTF

State : Gujarat District : Mehsana Taluka-Kadi

Village	Survey No.	Hec-tare	Are	Centi-are
Chalasan	114/2	0	09	12
	114/3	0	08	52
	86/1	0	01	20
	86/2	0	11	40
	86/3	0	05	64
	88	0	14	40
	87	0	03	60
	Cart track	0	00	84
	92	0	09	84
	95	0	04	20

[No. O-11027/30/90-ONG.D-III]

का. प्रा. 855:—यतः पेट्रोलियम और खनिज पाइप लाइन भूमि में उपयोग के अधिकार का अर्जन अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना का.प्रा.सं. 1275 तारीख 2-5-89 द्वारा केन्द्रीय सरकार ने उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग के अधिकार को पाइप लाइनों को बिछाने के लिए अर्जित करने का अपना आशय घोषित कर दिया था।

और यतः सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

और आगे, यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में निश्चित भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है।

अब, अतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रवृत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइप लाइन बिछाने के लिए एतद्वारा अर्जित किया जाता है।

और आगे उस धारा की उपधारा (1) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निर्देश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में निहित होने की बशत तेल और प्राकृतिक गैस आयोग में, सभी बगैरानों से मुक्त रूप में, शोषणा के प्रकाशन की इस तारीख को निहित होगा।

अनुसूची

कु. नं. 29 से कुप नं. 15 से डबका जी.सी.एस. तक पाइप लाइन बिछाने के लिए।

राज्य : गुजरात जिला : वडोदरा तालुका : पदरा

गांव	ब्लॉक नं०	हेक्टेयर	घार	सेन्टी.
कुराल	397	0	03	30
	396	0	13	80
	395	0	02	25
	394	0	06	00
कार्ट ट्रैक		0	02	25

[सं. ओ-11027 53-89-ओ एन जी डी-III]

S.O. 855.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. No. 1275 dated 2-5-89 under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in lands specified in the schedule appended to that notification for the purpose of laying pipeline.

And, whereas, the Competent Authority has under sub-section (1) of the Section 6 of the said Act, submitted report to the Government;

And, further, whereas the Central Government has, after considering the said report decided to acquire the right of user in the lands in the schedule appended to this notification;

Now, therefore, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipeline;

And, further, in exercise of power conferred by sub-section (4) of the section, the Central Government directs that the right of user in the said lands shall instead of vesting in Central Government vests on this date of the publication of this declaration in the Oil and Natural Gas Commission free from encumbrances.

SCHEDULE

Pipeline from well No. 29 to well No. 15 to Dabka GCS
State : Gujarat Distt : Vadodara Taluka : Padra

Village	Block No.	Hec-tare	Are	Centiare
Kural	397	0	03	30
	396	0	13	80
	395	0	02	25
	394	0	06	00
cart track		0	02	25

[No. O-11027/53/89-ONG. D-III]

का. घा. 856:—यह केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में जी एन डी (ओ) से इ पी एस तक पेट्रोलियम के परिवहन के लिए पाइप लाइन तेल तथा प्राकृतिक गैस आयोग द्वारा बिछाई जानी चाहिए।

और मत: यह प्रतीत होता है कि कि ऐसी लाइनों को बिछाने के प्रयोजन लिए एतदपावक अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

मत: अब पेट्रोलियम और खनिज पाइप लाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।

बशर्ते कि उक्त भूमि में हस्तबद्ध कोई व्यक्ति उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप सक्षम अधिकारी, तेल तथा प्राकृतिक गैस आयोग, निर्माण और देखभाल प्रभाग, मकरपुरा रोड, वडोदा-9 को इन अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिश्चित: यह भी कथन करेगा कि या यह चाहता है कि उसकी मुनबाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत।

अनुसूची

जी एन डी सेड से इ पी एस तक पाइप लाइन बिछाने के लिए।

राज्य : गुजरात जिला : भरुच तालुका : वागरा

गांव	ब्लॉक नं.	हे.	घार	सेन्टी
गंधार	322/ए/बी	0	11	08

[सं. ओ-11027/32/90-ओ एन जी डी-III]

S.O. 856.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from GNDZ to EPS in Gujarat State pipeline should be laid by the Oil and Natural Gas Commission.

And, whereas, it appears that for the purpose of laying such pipeline, it is necessary to acquire that right of user in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil and Natural Gas Commission, Construction and Maintenance Division, Makarpura Road, Vadodara-390009.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal Practitioner.

SCHEDULE

Pipeline from GNDZ to EPS.

State : Gujarat District : Bharuch Taluka:Vagra

Village	Block No.	Hec-tare	Are	Centiare
Gandhar	322/A/B	0	11	08

[No. O-11027/32/90-ONG. D-III]

का.प्रौ. 857:—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में जी एन ईजी से इसी एम तक पेट्रोलियम के परिवहन के लिए पाइप लाइन तेल तथा प्राकृतिक गैस अयोग द्वारा बिछाई जानी चाहिए।

और अतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एम्बुपबड अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइप लाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एम्बुपबड घोषित किया है।

बशर्ते कि उक्त भूमि में हितवध कोई व्यक्ति उस भूमि के नीचे पाइप लाइन बिछाने के लिए आशेष सक्षम प्राधिकारी, तेल तथा प्राकृतिक गैस अयोग, निर्माण और देखभाल प्रभाग, मकरपुरा रोड, बडोदा-9, को इस सूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आशेष करने वाला हर व्यक्ति निविष्टित: यह भी कथन करेगा कि क्या वह यह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत।

अनुसूची

जी एन ईजी (जी आर-19) से इसी एम तक पाइप लाइन बिछाने के लिए

राज्य : गुजरात	जिला : भरुच	तालुका : वागरा			
गांव	ब्लॉक नं.	हे.	आर.	सेन्टी.	
गंधार	321	01	45	84	
	322/ए-बी	01	50	08	

[सं. O-11027/31/90-एम एन जी डी-III]

S.O. 857.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from GNEG to EPS in Gujarat State pipeline should be laid by the Oil and Natural Gas Commission.

And, whereas, it appears that for the purpose of laying such pipeline, it is necessary to acquire that right of user in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil and Natural Gas Commission, Construction and Maintenance Division, Makarpura Road, Vadodara-390009.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal Practitioner.

SCHEDULE

Pipeline from GNEG (GR-19) to E.P.S.

State : Gujarat District : Bharuch Taluka : Vagra

Village	Block No.	Hec-tare	Are	Centiare
Gandhar	321	01	45	84
	322/A-B	01	50	08

[No. O-11027/31/90-ONG. D-III]

का.प्रौ. 858 :—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में एम के एक एन से एन के एक एम तक पेट्रोलियम के परिवहन के लिए पाइप लाइन तेल तथा प्राकृतिक गैस अयोग द्वारा बिछाई जानी चाहिए।

और अतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एम्बुपबड अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइप लाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962, (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एम्बुपबड घोषित किया है।

बशर्ते कि उक्त भूमि में हितवध कोई व्यक्ति, उस भूमि के नीचे पाइप लाइन बिछाने के लिए आशेष सक्षम प्राधिकारी, तेल तथा प्राकृतिक गैस अयोग, निर्माण और देखभाल प्रभाग, मकरपुरा रोड, बडोदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आशेष करने वाला हर व्यक्ति निविष्टित: यह भी कथन करेगा कि क्या वह यह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत।

अनुसूची

एन के एक एन से एन के एक एम तक पाइप लाइन बिछाने के लिए राज्य : गुजरात : जिला : अहमदाबाद तालुका : विरमगम

गांव	सर्वे नं.	हे.	आर.	सेन्टी.
भटारिया	44	00	04	44

[सं. O-11027/28/90-ओ एन जी डी-III]

के. विवेकानन्द, डेस्क अधिकारी

S.O. 858.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from NKFN to NKFM in Gujarat State pipeline should be laid by the Oil and Natural Gas Commission.

And, whereas, it appears that for the purpose of laying such pipeline, it is necessary to acquire that right of user in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil and Natural Gas Commission, Construction & Maintenance Division, Makarpura Road; Vadodara-390009.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal Practitioner.

SCHDULE

Pipeline from NKFN to NKFM

State : Gujarat Distt: Ahmedabad Taluka Virsamgam

Village	Survey No.	Hec-tare	Are	Centiare
Bhataria	44	00	04	44

[No. O-11027/28/90-ONG. D-III]

K. VIVEKANAND, Desk Officer.

खाद्य एवं नागरिक पूर्ति मंत्रालय

(नागरिक पूर्ति विभाग)

आदेश

नई दिल्ली, 14 मार्च, 1990

का. अ. 859.—बाट तथा माप मानक (सामान्य) नियम, 1987 के नियम 18, 19 व 20 के साथ पठित बाट तथा माप मानक अधिनियम 1976 (1976 का 60) की धारा 22 के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार इसके द्वारा मै. राधेश्याम ऋषिपाल, 304/14, शहजादा बाग औद्योगिक क्षेत्र, दिल्ली-110035 को केवल निर्यात के प्रयोजनों के लिए निम्नलिखित गैर मानक बाटों तथा मापकों का विनिर्माण करने की अनुमति देती है:—

- (1) 15 पाउण्ड क्षमता के तुल.ए. 2×1 पाउण्ड, 2×2 पाउण्ड और 2×5 पाउण्ड के बाट सहित।
यह अनुमति निम्नलिखित शर्तों के अधीन है:
- (1) केवल निर्यात के लिए बनाए गए अथवा विनिर्मित कोई भी गैर मानक बाट या मापक, जैसे कि ऊपर (1) में विनिर्दिष्ट किया गए हैं, भारत की सीमा के भीतर बेचे अथवा किसी भी अन्य रूप में वितरित नहीं किए जाएंगे।
- (2) पंचांग वर्ष के अंत में फर्म, केन्द्रीय सरकार को एक विवरण प्रस्तुत करेगी जिसमें उसके द्वारा निर्दिष्ट किए गए गैर-मानक बाटों अथवा मापकों की मात्रा तथा उन व्यक्तियों का ब्योरा दिया गया होगा जिन्हें ये निर्यात किए गए हैं।
- (3) फर्म उसके द्वारा विनिर्मित गैर-मानक बाटों अथवा मापकों निर्यात किए जा चके बाटों व मापकों की संख्या तथा स्टॉक में पड़े अथवा उत्पादन के अधीन बाटों अथवा मापकों की संख्या का मासिक रिकार्ड रखेगी। इस प्रकार रखा गया रिकार्ड केन्द्रीय सरकार द्वारा प्राधिकृत किसी भी अधिकारी के निरीक्षण के लिए उपलब्ध रहेगा।
- (4) यह अनुमति इस आदेश के जारी होने की तारीख से एक वर्ष की अवधि के लिए वैध रहेगी।

[मिसल संख्या डब्लू एम. 9(22)/89]

MINISTRY OF FOOD AND CIVIL SUPPLIES
(Department of Civil Supplies)**ORDER**

New Delhi, the 14th March, 1990

S.O. 859.—In exercise of the powers conferred by the proviso to section 22 of the Standard of Weights and Measures Act, 1976 (60 of 1976) read with rules 18, 19 and 20 of the Standards of Weights and Measures (General) Rules, 1987, the Central Government hereby permits M/s. Radhey Sham Rishi Pal, 308/14, Shahzada Bagh Industrial Area, Delhi-35, to manufacture the following non-standard weights or measures exclusively for export purposes:—

- (i) Weighing Scales 15 lb each
with set of 2×1 lb,
 2×2 lb and 2×5 lb weights.

This permission is subject to the following terms and conditions, namely:—

- (1) No non-standard weight or measure made or manufactured exclusively for export, as specified in (i), above, shall be sold or otherwise distributed within the territory of India.
- (2) The firm shall submit to the Central Government, at the end of the calendar year, a statement as to the quantity of the non-standards weight or measures exported by it and the particulars of the person to whom such export has been made.
- (3) The firm shall maintain a monthly record of the number of such non-standard weights or measures manufactured by it, number of weights & measures already exported by it, and number of weights or measures in stock or under production. The record so maintained shall be open to inspection by an officer authorised by the Central Government in this behalf.
- (4) This permission shall remain valid for a period of one year from the date of issue.

[F. No. WM-9(22)/89]

आदेश

का. अ. 860.—बाट तथा माप मानक (सामान्य) नियम, 1987 के नियम 18, 19 व 20 के साथ पठित बाट तथा माप मानक अधिनियम 1976 (1976 का 60) की धारा 22 के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार इसके द्वारा मै. फ्रीमंस मेजर्स प्राइवेट लिमिटेड, फिरोजपुर रोड, लुधियाना-141001 को केवल निर्यात के प्रयोजनों के लिए निम्नलिखित गैर मानक बाटों तथा मापकों का विनिर्माण करने की अनुमति देती है:—

- | | |
|---------------------------|------------------|
| (1) धातुतार युक्त टेप माप | 1 मी. से 100 मी. |
| (2) फाइबर ग्लास टेप माप | 1 मी. से 100 मी. |
| (3) स्टील टेप माप | 1 मी. से 100 मी. |
| (4) स्टील रूल और टेप रूल | 1 मी. से 100 मी. |

यह अनुमति निम्नलिखित शर्तों के अधीन है:—

- (1) केवल निर्यात के लिए बनाए गए अथवा विनिर्मित कोई भी गैर मानक बाट या मापक, जैसे कि ऊपर (1) व (4) में विनिर्दिष्ट किए गए हैं, भारत की सीमा के भीतर बेचे अथवा किसी भी अन्य रूप में वितरित नहीं किए जाएंगे।
- (2) पंचांग वर्ष के अंत में फर्म, केन्द्रीय सरकार को एक विवरण प्रस्तुत करेगी जिसमें उसके द्वारा निर्यात किए गए गैर-मानक बाटों अथवा मापकों की मात्रा तथा उन व्यक्तियों का ब्योरा दिया गया होगा, जिन्हें ये निर्यात किए गए हैं।
- (3) फर्म उसके द्वारा विनिर्मित गैर-मानक बाटों अथवा मापकों निर्यात किए जा चके बाटों व मापकों की संख्या तथा स्टॉक में पड़े अथवा उत्पादन के अधीन बाटों अथवा मापकों की संख्या का मासिक रिकार्ड रखेगी। इस प्रकार रखा गया रिकार्ड केन्द्रीय सरकार द्वारा प्राधिकृत किसी भी अधिकारी के निरीक्षण के लिए उपलब्ध रहेगा।
- (4) यह अनुमति इस आदेश के जारी होने की तारीख से एक वर्ष की अवधि के लिए वैध रहेगी।

[मिसल संख्या डब्लू एम. 9(22)/89]

सर्वे नायर, सचिव सचिव

ORDER

S.O. 860.—In exercise of the powers conferred by the proviso to section 22 of the Standard of Weights and Measures Act, 1976 (60 of 1976), read with rules 18, 19 and 20 of the Standard of Weights and Measures (General) Rules, 1987, the Central Government hereby permits M/s. Free-mans Measures Private Ltd., Ferozepore Road, Ludhiana-141001 to manufacture the following non-standard weights or measures exclusively for export purposes:—

- (i) Metal Wire Measuring tapes 1 m to 100 m.
- (ii) Fibreglass measuring tapes 1 m to 100 m.
- (iii) Steel measuring tapes 1 m to 100 m.
- (iv) Steel rules and tape rules 1 m to 100 m.

This permission is subject to the following terms and conditions, namely:—

- (1) No non-standard weight or measure made or manufactured exclusively for export, as specified in (i) to (iv) above, shall be sold or otherwise distributed within the territory of India.
- (2) The firm shall submit to the Central Government at the end of the calendar year, a statement as to the quantity of the non-standards weight or measures exported by it and the particulars of the person to whom such export has been made.
- (3) The firm shall maintain a monthly record of the number of such non-standard weights or measures manufactured by it, number of weights and measures already exported by it, and number of weights or measures in stock or under production. The record so maintained shall be open to inspection by an officer authorised by the Central Government in this behalf.
- (4) This permission shall remain valid for a period of one year from the date of issue.

[File No. WM-9 (22)/89]

SETHI NAIR, Jt. Secy

खाद्य एवं भागीरक्ष पूर्ति मंत्रालय

(नागरिक पूर्ति विभाग)

भारतीय मानक ब्यूरो

नई दिल्ली, 13 मार्च, 1990

का.आ. 861--भारतीय मानक ब्यूरो नियम, 1987 के नियम 9 के उपनियम (1) के अधुवर्णन से भारतीय मानक ब्यूरो एनडू द्वारा अधिसूचित करता है कि नीचे अनुसूची में दिए गए भारतीय मानकों सम्बन्धी मानक मुहर निर्धारित कर दिए गए हैं।

अनुसूची

क्रम सं.	मानक मुहर का डिजाइन	उत्पाद/उत्पाद का क्षेत्र	भारतीय मानक की सं. और वर्ष	लागू होने की तिथि
1.		एक्सेल्टम सीमेंट दाब पाइप टिप्पणी: मानक मुहर का डिजाइन में निम्न परिवर्तन किया गया है:	IS : 1592--1980	1983-05-16
		एक्सेल्टम सीमेंट दाब पाइप	IS : 1592--1980	1985-01-01
2.		हस्त चालित अंगार--घिरना क्षमिक	IS : 3832--1971	1984-02-01
3.		खाद्य ग्रेड सोडियम कार्बोक्सीमिथाइल सैल्यूलोज	IS : 5306--1978	1987-09-16
4.		खाद्य ग्रेड, एस्कार्बिक अम्ल	IS : 5342--1969	1987-12-01
5.		तकनाका ग्रेड, सोडियम फोस्फेट	IS : 6507--1982	1988-12-01
6.		खाद्य ग्रेड, क्यूमेरिक अम्ल	IS : 6793--1972	1980-04-01
7.		एक्सेल्टम सीमेंट दाब पाइप (हल्का इयुटी)	IS : 9627--1980	1983-07-16
8.		घी और खाद्य तेलों के कनस्तर	IS : 10339--1982	1986-04-01
9.		मोटर वाहनों के लिए हवा भरने टायर. शासक कार टायर विकर्ण स्लॉश	IS : 10914 (भाग 3)--1985	1989-01-16
10.		53 ग्रेड साधारण पोर्ट-लैण्ड सीमेंट	IS : 12269--1987	1989-01-01











[सं. सं.एम.डी./13: 9]

एन. सुब्रह्मण्यन, अपर महानिदेशक

MINISTRY OF FOOD AND CIVIL SUPPLIES
(Department of Civil Supplies)
BUREAU OF INDIAN STANDARDS
New Delhi, the 13th March, 1990

S. O. 861—In pursuance of Sub-rule (1) of the rule 9 of Bureau of the Indian Standards Rules, 198 the Bureau of Indian Standards, hereby notifies the Standard Mark(s), for the Indian Standards given in the schedule:

SCHEDULE

Sl. No.	Design of the Standard Mark	Product/Class of Product	No. and year of the Indian Standard	Date of Effect
1.		Asbestos cement pressure pipes Note: The design of the standard Mark has since been revised as under: Asbestos cement pressure pipes	IS : 1592-1980 IS : 1592-1984	1983-05-16 1985-01-01
2.		Hand-operated chain pulley blocks	IS : 3832-1971	1984-02-01
3.		Sodium carboxymethyl cellulose, food grade	IS : 5306-1978	1987-09-16
4.		Ascorbic acid, food grade	IS : 5342-1969	1987-12-01
5.		Sodium chromate, technical	IS : 6507-1982	1988-12-01
6.		Fumaric acid, food grade	IS : 6793-1972	1980-04-01
7.		Asbestos cement pressure pipe (light duty)	IS : 9627-1980	1983-07-16
8.		Ghee and edible oils tins	IS : 10339-1982	1986-04-01
9.		Pneumatic tyres for automotive vehicles: Passenger car tyres—Diagonal ply	IS : 10914(Part 3) 1985	1989-01-16
10.		53 grade ordinary portland cement	IS : 12269-1987	1989-01-01

[No. CMD/13 : 9]

S. SUBRAHMANYAN, Addl. Dir. Genl.

वस्त्र मंत्रालय

नई दिल्ली, 22 मार्च, 1990

का.मा. 862.—केन्द्रीय सरकार, केन्द्रीय रेशम बोर्ड, अधिनियम, 1948 (1948 का 61) की धारा 4 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारत सरकार के वस्त्र मंत्रालय की अधिसूचना सं. का. मा. 747(ई) दिनांक 9 अगस्त, 1988 में निम्नलिखित संशोधन करती है—
उक्त अधिसूचना में

(क) क्रम सं. 2 और उससे संबंधित प्रविष्टि के स्थान पर निम्नलिखित को रखा जायेगा, अर्थात्:—

“2. निदेशक (उप सचिव आंतरिक विस्तारणा बस्त्र मंत्रालय, भारत सरकार नामित

(ख) क्रम सं. 19 और उससे संबंधित प्रविष्टि के स्थान पर निम्नलिखित को रखा जायेगा, अर्थात्:—

“19. निदेशक, रेशम उत्पादन महाराष्ट्र सरकार अधिनियम का प्राव (3) (1) के अन्तर्गत केन्द्र सरकार द्वारा नामित

[फा.सं. 25012(11)/88-सिलक]

MINISTRY OF TEXTILES

New Delhi, the 22nd March, 1990

S.O. 862.—In exercise of the powers conferred by sub-section (3) of Section 4 of the Central Silk Board Act, 1948 (61 of 1948), the Central Government hereby takes the following amendment in the notification of the Government of India in the Ministry of Textiles No. S.O. 747(E) dated 9th August, 1988 :—

In the said notification,

(a) For serial No. 2 and the entry relating thereto, the following shall be substituted, namely :—

"2. Director/Deputy Secretary, } Nominated by the
Internal Finance Wing } Central Govt. under
Ministry of Textiles, } Section 4(3)(b)
Government of India. } of the Act."

(b) For serial No. 19 and the entry relating thereto the following shall be substituted, namely

"19. Director of Sericulture } Nominated by the
Government of Maharashtra } Central Govt. under
} Section 3(i) of the
} Act."

[P. No. 25012/11/88-Silk]

HRUSIKESH PANDA, Dy. Secy.

शहरी विकास मंत्रालय

(निर्माण महानिदेशालय, केन्द्रीय लोक निर्माण विभाग)

नई दिल्ली, 19 मार्च, 1990

का. प्रा. 863.—केन्द्रीय सरकार द्वारा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में केन्द्रीय लोक निर्माण विभाग के निम्नलिखित कार्यालयों को जिनके अधिकारियों/कर्मचारियों में हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित किया जाता है। इसे इस कार्यालय की दिनांक 15 अक्तूबर, 1988 की अधिसूचना संख्या 2/2/88-हिंदी के अनुक्रम में जारी किया जाता है :—

1. मुख्य इंजीनियर (नई दिल्ली अंचल-1) केन्द्रीय लोक निर्माण विभाग, नई दिल्ली
2. मुख्य इंजीनियर (नई दिल्ली अंचल-2) केन्द्रीय लोक निर्माण विभाग, नई दिल्ली
3. मुख्य इंजीनियर (दिल्ली प्रशासन अंचल-1) लोक निर्माण विभाग, नई दिल्ली
4. मुख्य इंजीनियर (दिल्ली प्रशासन अंचल-2) लोक निर्माण विभाग, नई दिल्ली
5. मुख्य इंजीनियर (निर्माण अंचल), केन्द्रीय लोक निर्माण विभाग, नई दिल्ली
6. मुख्य इंजीनियर (विद्युत्-1), केन्द्रीय लोक निर्माण विभाग, नई दिल्ली
7. मुख्य इंजीनियर (विद्युत्-2) केन्द्रीय लोक निर्माण विभाग, नई दिल्ली
8. मुख्य इंजीनियर (खाद्य), केन्द्रीय लोक निर्माण विभाग, नई दिल्ली
9. परियोजना प्रबंधक यमुना सेतु परियोजना (दिल्ली प्रशासन), लोक निर्माण विभाग, नई दिल्ली
10. अधीक्षक इंजीनियर, दिल्ली केन्द्रीय विद्युत् परिसंयोजन-6, के. लो. नि. वि. नई दिल्ली
11. अधीक्षक इंजीनियर, दिल्ली केन्द्रीय विद्युत् परिसंयोजन-5, के. लो. नि. वि. नई दिल्ली
12. अधीक्षक इंजीनियर, दिल्ली केन्द्रीय परिसंयोजन-2, केन्द्रीय लोक निर्माण विभाग, नई दिल्ली
13. अधीक्षक इंजीनियर, दिल्ली केन्द्रीय भंडार परिसंयोजन, के. लो. नि. वि. नई दिल्ली
14. कार्यपालक इंजीनियर, विद्युत् निर्माण मंडल-1, के. लो. नि. वि. नई दिल्ली
15. कार्यपालक इंजीनियर, विज्ञान भवन, विद्युत् मंडल, के. लो. नि. वि. नई दिल्ली
16. कार्यपालक इंजीनियर, नागपुर केन्द्रीय विद्युत् मंडल, के. लो. नि. वि. नागपुर
17. कार्यपालक इंजीनियर, मृत्ता कृषिासी भण्डारण मंडल, के. लो. नि. वि. नई दिल्ली

18. कार्यपालक इंजीनियर, 'एच' मंडल, केन्द्रीय लोक निर्माण विभाग, नई दिल्ली
19. कार्यपालक इंजीनियर, 'जे' मंडल, केन्द्रीय लोक निर्माण विभाग, नई दिल्ली
20. कार्यपालक इंजीनियर, खाद्य भंडार मंडल, वृधियाना, के. लो. नि. वि. नई दिल्ली
21. कार्यपालक इंजीनियर, पटना केन्द्रीय मंडल, केन्द्रीय लोक निर्माण विभाग, पटना
22. कार्यपालक इंजीनियर, रांची केन्द्रीय मंडल, केन्द्रीय लोक निर्माण विभाग, रांची
23. कार्यपालक इंजीनियर, नागपुर केन्द्रीय मंडल, केन्द्रीय लोक निर्माण विभाग, नागपुर
24. कार्यपालक इंजीनियर, नागपुर केन्द्रीय मंडल-2, केन्द्रीय लोक निर्माण विभाग, नागपुर
25. कार्यपालक इंजीनियर, इंदौर केन्द्रीय मंडल, केन्द्रीय लोक निर्माण विभाग, इंदौर
28. कार्यपालक इंजीनियर, प्रदर्शनो मंडल-1, केन्द्रीय लोक निर्माण विभाग, नई दिल्ली
27. कार्यपालक इंजीनियर, केन्द्रीय भंडार मंडल-2, केन्द्रीय लोक निर्माण विभाग, नई दिल्ली
28. कार्यपालक इंजीनियर, भोपाल केन्द्रीय मंडल, (विद्युत्) के. लो. नि. वि. भोपाल
29. कार्यपालक इंजीनियर, लोक निर्माण विभाग मंडल-26 (वि. प्र.), के. लो. नि. वि. नई दिल्ली
30. कार्यपालक इंजीनियर, लोक निर्माण विभाग मंडल-28 (वि. प्र.) के. लो. नि. वि. नई दिल्ली

[संख्या 5/1/88-हिंदी]

आनंद चितामण पंचधारी, निर्माण महानिदेशक

MINISTRY OF URBAN DEVELOPMENT

(Directorate General of Works, Central Public Works Department)

New Delhi, the 19th March, 1990

S. O. 863.—In pursuance of sub-rule 4 of rule 10 of the Official Language (use for official purposes of the Union) Rule 1976, the Central Government hereby notifies the following offices of the CPWD, the staff whereof have acquired a working knowledge of Hindi. This issues in continuation of this office Notification No. 2/2/86-Hindi dated 15-10-87.

1. Chief Engineer (NDZ-I), CPWD, Nirman Bhawan, New Delhi.
2. Chief Engineer (NDZ-II), CPWD, Nirman Bhawan, New Delhi.
3. Chief Engineer (DA) I, PWD, New Delhi.
4. Chief Engineer (DA) II, PWD, New Delhi.
5. Chief Engineer (Construction Zone), CPWD, R.K. Puram, New Delhi.
6. Chief Engineer (Elect.) I, CPWD, Vidyut Bhawan, New Delhi.
7. Chief Engineer (Elect.) II, CPWD, Vidyut Bhawan, New Delhi.
8. Chief Engineer (Food Zone), CPWD Krishi Bhawan, New Delhi.
9. Project Manager, Yamuna Bridge Project (DA), M.S.O. Building, I.P. Marg, New Delhi.
10. Superintending Engineer, Delhi Central Elect. Circle-6, CPWD, New Delhi.
11. Superintending Engineer, Delhi Central Elect. Circle-5, CPWD, New Delhi.
12. Superintending Engineer, Delhi Central Circle-2, CPWD, New Delhi.
13. Superintending Engineer, Food Storage Circle, CPWD, New Delhi.

14. Executive Engineer, Elect, Const Division-I, CPWD, New Delhi.
15. Executive Engineer, Vigyan Bhawan Elect. Division, CPWD, New Delhi.
16. Executive Engineer, Nagpur Elect. Division, CPWD, Nagpur.
17. Executive Engineer, Suchetra Kriplani Hospital Division, CPWD, New Delhi.
18. Executive Engineer, 'H' Division, CPWD, New Delhi.
19. Executive Engineer, 'J' Division, CPWD, New Delhi.
20. Executive Engineer, Food Storage Division, CPWD, Ludhiana.
21. Executive Engineer, Patna Division, CPWD, Patna (Bihar).
22. Executive Engineer, Ranchi Division, CPWD, Ranchi.
23. Executive Engineer, Nagpur Division I, CPWD, Nagpur.
24. Executive Engineer, Nagpur Division II, CPWD, Nagpur.
25. Executive Engineer, Indore, Elect Division CPWD, Indore.
26. Executive Engineer, Exhibition Division No. 1, CPWD, New Delhi.
27. Executive Engineer, Food Storage Division-2, CPWD, New Delhi.
28. Executive Engineer, Bhopal Elect. Division-2, CPWD, Bhopal.
29. Executive Engineer, PWD Division No. 26 DA, New Delhi.
30. Executive Engineer, PWD Division No. 28 (DA), New Delhi.

[No. 5/1/88-Hindi]

A. C. PANCHDHARI, Director General (Works)

नागर विमानन मंत्रालय

फरवरी, 1990

का. आ. 864 -- जबकि पवनहंस का डाफिन हेलीकोप्टर बी टी-ईएलओ 15 दिसंबर, 1989 को कलकत्ता से पटना के लिए नेव और प्राकृतिक गैस आयोग की चार्टर उड़ान भरने हुए पटना में लगभग 4 मील की दूरी पर गंगा नदी में दुर्घटनाग्रस्त हो गया। दुर्घटना के परिणामस्वरूप सभी सवार व्यक्तियों की (जिनमें 2 कर्मियों के सदस्य और 5 यात्री थे) मृत्यु हो गई।

और जबकि केन्द्रीय सरकार को ऐसा महसूस होता है कि उक्त दुर्घटना की एक जांच समिति द्वारा जांच करवाना उचित है।

अतः अब, वायुयान नियम, 1937 के नियम 74 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार दुर्घटना की परिस्थितियों और संभावित कारणों का निर्धारण करने के लिए एक जांच समिति नियुक्त करती है जिसमें निम्नलिखित व्यक्ति शामिल होंगे:—

- | | |
|----------------------------------|---------|
| 1. ग्रुप कैप्टन श्री एन. सापड़े | अध्यक्ष |
| भारतीय वायु सेना | |
| 2. फ्लाइट लेफ्टिनेंट राय | सदस्य |
| भारतीय वायु सेना | |
| 3. व्हाइट कमांडर राजेंद्र कपूर | सदस्य |
| कृषि विमानन | |
| 4. श्री आर. के. पॉल | सचिव |
| क्षेत्रीय नियंत्रक विमान सुरक्षा | |
| कलकत्ता | |

समिति को अपनी रिपोर्ट 31 मार्च 1990 तक प्रस्तुत करनी होगी।

[गं. ए.बी-15013/11/89-एस.एम.पी.]

अनिल मिश्र, उप सचिव

MINISTRY OF CIVIL AVIATION

New Delhi, the 2nd February 1990

S.O. 261 - Whereas Pawan Hans Dauphine helicopter VI-EL0 while operating ONCC charter flight from Calcutta to Patna on the 15th December, 1989, crashed into the river

Ganges about 4 miles from Patna airport resulting in the death of all the occupants (two crew and 5 passengers).

And whereas, it appears necessary to Central Government that it is expedient to hold an inquiry into the said accident by a Committee of Inquiry.

Now therefore, in exercise of the powers conferred by Rule 74 of the Aircraft Rules, 1937, the Central Government hereby appoint a Committee of Inquiry composed of the following persons to determine the circumstances of the accident and probable causes leading to the accident.

- | | |
|--|------------|
| 1. Gp. Capt. V. N. Sapre, | Chairman |
| Indian Air Force. | |
| 2. Flt. Lt. Roy, Indian Air Force | Member |
| 3. Wg. Cdr. Rajendra Kapoor, | Member |
| Agro Aviation. | |
| 4. Shri R. K. Paul, Regional Controller of | Secretary- |
| Air Safety, Calcutta. | Member |

The Committee is required to submit its report by 31-3-1990.

[No. AV-15013/11/89-SSV]

ANIL MISRA, Dy. Secy.

जल-भूतल परिवहन मंत्रालय

(नौवहन महानिदेशालय)

बम्बई, 16 मार्च, 1990

(वाणिज्य पोत परिवहन)

का. आ. 865 -- वाणिज्य पोत परिवहन (नौवहन रोजगार कार्यालय) नियम, 1986 के नियम 3 के साथ पठित, भारत सरकार, जल भूतल परिवहन मंत्रालय की अधिसूचना संख्या सडब्ल्यू/एमडब्ल्यू एस-40/85-एमटी, दिनांक 22 अप्रैल, 1988, के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, नौवहन महानिदेशक एन.के. देशपांडे, कप्तान जी. के. सरकारी और श्री एम. डी. रथरेकर, को बम्बई पोत पर नाविक रोजगार बोर्ड (विदेशवासियों) में क्रमशः श्री वा. ए. जोग, श्री डी. एस. कुमाना और मोहंमद खान देशमुख के स्थान पर सदस्य के रूप में नियुक्त करते हैं और भारत सरकार, जल भूतल परिवहन मंत्रालय, नौवहन महानिदेशालय की अधिसूचना संख्या का. आ. 2628, दिनांक 11 अगस्त, 1988 में निम्नलिखित संशोधन करते हैं:

उक्त अधिसूचना के क्रमांक 8, क्रमांक 10 और क्रमांक 17 के सामने की प्रविष्टियों में "श्री वा. एम. जोग", "श्री डी. एस. कुमाना" और "श्री मोहंमद खान देशमुख" के स्थान पर क्रमशः "कप्तान जी. के. देशपांडे", "कप्तान जी. के. सरकारी" और "श्री एम. डी. रथरेकर" के नाम प्रतिस्थापित किए जाएंगे।

[गं. 24(1)बी आर/87]

एन. क. प्रसाद, उप महानिदेशक, नौवहन

MINISTRY OF SURFACE TRANSPORT
(Directorate General of Shipping)

Bombay, the 16th March, 1990

S.O. 865 -- In exercise of the powers conferred by rule 3 of the Merchant Shipping (Seamen's Employment Offices) Rules, 1986 read with the Notification of the Government of India in the Ministry of Surface Transport No. SW/MWS-40/85-MT dated the 22nd April, 1988, the Director General of Shipping hereby appoints Capt. P. K. Deshpande Capt. G. K. Sarkari and Shri M. D. Rethrekar as members of the Seamen's Employment Board (Foreign-Going) at the port of Bombay, in place of Shri V. M. Jog, Shri D. S. Kumana and Shri Mohd. Khan Deshmukh respectively and makes the following amendment to the Notification of the Government of India in the Ministry of Surface Transport, Directorate General of Shipping No. S.O. 2628 dated the 11th August, 1988 as follows:—

In the said Notification, in the entry against Serial No. 8, Serial No. 10 and Serial No. 17 the names 'Shri V. M. Jog', 'Shri D. S. Kumana' and 'Shri Mohd. Khan Deshmukh' respectively shall be substituted by 'Capt. P. K. Deshpande' and 'Capt. G. K. Sarkari' and 'Shri M. D. Rethrekar' respectively.

[गं. 24(1)बी आर/87]

N. K. PRASAD, Dy. Director General of Shipping

श्रम मंत्रालय

नई दिल्ली, 1 मार्च, 1990

का.अ. 866.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार, सैमर्स ईस्टर्न कोलिफिल्ड्स लि. की गोविन्दपुर कोलियरी के प्रबन्धकों से सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच, अन्वय में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (सं. 2), धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

MINISTRY OF LABOUR

New Delhi, the 1st March, 1990

S.O. 866.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 2, Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Govindpur Colliery of M/s. Bharat Coking Coal Ltd. and their workmen, which was received by the Central Government.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD****PRESENT :**

Shri I. N. Sinha, Presiding Officer.

Reference No. 85 of 1985

In the matter of an industrial dispute under Section 10(1)(d)

of the I. D. Act, 1947

PARTIES :

Employers in relation to the management of Govindpur Colliery of Messrs Bharat Coking Coal Limited and their workmen.

APPEARANCES :

On behalf of the workmen—Shri S. Bose, Secretary, R.C.M.S. Union.

On behalf of the employers—Shri B. Joshi, Advocate.

STATE : Bihar

INDUSTRY : Coal

Dhanbad, the 12th February, 1990

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. I 20012 (66)/85-D III (A), dated, the 10th June, 1985.

SCHEDULE

“Whether the demand of Rashtriya Colliery Mazdoor Sangh that the management of Govindpur Colliery of Messrs Bharat Coking Coal Limited should treat and regularise the Clay Cartridge makers (whose names are given in the Annexure below) as Category-I workmen on the rolls of the Colliery is justified? If so, to what relief and from what date are the workmen concerned entitled?”

ANNEXURE

1. Shri Bijay Kumar Verma
2. Sri Ramesh Kumar Verma
3. Sri Manoj Kumar Sinha
4. Sri Badri Ram
5. Sri Prabhat Kishore Verma
6. Sri Ashok Ram

7. Sri Subhas Ram
8. Sri Chandershekar Kumar
9. Smt. Parbatia Kamin
10. Sri Shyamkishore Prasad
11. Sri Gagan Kumar Lall
12. Sri Ramswarup Ram
13. Sri Shiv Shankar Lall
14. Sri Niranjan Kumar Tewari
15. Sri Mahabir Singh
16. Shri Shankar Choudhury.

The case was pending since long for settlement. Finally a joint petition was filed on 25-1-90 stating that the present reference is arising out of the demand of Clay cartridge makers for regularisation as workmen of the Colliery and for payment of Category I wages to them. It is further stated that a joint decision has been taken by the management and the trade unions for employing such members of clay cartridge mazdoors @ one person per 100 clay cartridges per day basis out of the genuine clay cartridge makers and will be paid Category I wages. It is also stated that as per the above guideline the requirement of number of persons and the genuinity of workmen have to be decided at the Colliery level and the management will have to implement the joint decision. In view of the joint policy decision no dispute exists on the issue raised in the reference and as such it has been prayed that a 'no dispute' award may be passed in this case.

It appears from the joint petition of the parties that the demand relating to the present reference has been settled outside the Tribunal and that the parties are to abide by the settlement as stated in the petition mentioned above.

The Award is passed accordingly.

I. N. SINHA, Presiding Officer

[No. I-20012(66)/85-D.III (A)/IR (Coal-I)]

का.अ. 867.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार, सैमर्स ईस्टर्न कोलिफिल्ड्स लि. का कोयरा कोयरी के प्रबन्धकों से सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच, अन्वय में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (सं. 2) धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

S.O. 867.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2) Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Kapasara Colliery of M/s. Eastern Coalfields Ltd., and their workmen, which was received by the Central Government.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD****PRESENT :**

Shri I. N. Sinha, Presiding Officer.

Reference No. 356 of 1986

In the matter of an industrial dispute under Section 10(1)(d) of the I. D. Act, 1947

PARTIES :

Employers in relation to the management of Kapasara Colliery of M/s. Eastern Coalfields Limited and their workmen.

APPEARANCES :

On behalf of the workmen—Shri G. Prasad, Advocate.

On behalf of the employers—Shri R. S. Murthy, Advocate

STATE : Bihar

INDUSTRY : Coal

Dhanbad, the 9th February, 1990

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the L. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/1867, D III (A), dated, the November, 1986.

SCHEDULE

“Whether the demand of Koyala Mazdoor Congress that the management of Kapasara Colliery of M/s. Eastern Coalfields Limited should regularise 16 Wagon Loaders, whose names are mentioned below, on the direct rolls of employment of the Colliery is justified? If so, to what relief are these Wagon Loaders entitled?”

1. Shri Ram Pyare Prasad
2. Shri Dhurupnath Mahato
3. Shri Madan Mahato
4. Shri Shribhagwan Mahato
5. Shri Mohammad Safi Alam
6. Shri Abhimanoo Sethi No. 2
7. Shri Jara Gour
8. Shri Radha Sah
9. Shri Bijay Bisai
10. Shri Ladu Nahak
11. Shri Bipra Sethi No. 2
12. Shri Judhisthir Nahak
13. Shri Thakur Sah
14. Shri Krishna Sahu
15. Shri Naba Jena
16. Shri Sbbas Sethi.

The management of E.C.L. had constituted a central pool for the purpose of despatch of coal of Kapasara Colliery and some of the neighbouring Collieries from a common point. A part of the loading was made by the manual wagon loaders and the rest by mechanical pay loaders. The representing union of the central pool unit, Kapasara area has a representative character in respect of the workmen employed in the E.C.L. The employer hold meeting with Koyala Mazdoor Congress on different issue at all levels and was competent to spouse cause of the concerned persons who were members of the said union. The Koyala Mazdoor Congress raised an industrial dispute before the ALC(C) Dhanbad demanding that the 16 concerned person who were engaged in the Central Pool under Kapasara area of ECL as floating wagon loaders should be taken on the direct roll of the company at par with other wagon loader whose cases were similarly situated. A total number of 212 wagon loaders had been working as floating workers in Central Pool unit of Kapasara area since 1975. Various functioning union resorted to agitation for taking them on the direct roll of the company. In order to examine the said issue the employer constituted a committee to find out the eligibility of the said floating workmen to be taken on company's roll. The said committee prepared a list of 184 floating wagon loaders and submitted to the employer for necessary action for taking them on the roll of the company. However, in implementing the decision, the employer regularised 159 in the first lot and 9 in the second lot out of the list of 184 prepared by the committee. Thus out of total 184 eligible workmen 168 were taken on the roll and the remaining 16 were left out. Those 16 persons are the concerned persons whose names are mentioned in the schedule to the order of reference. The said 16 concerned persons were working in the Central Pool of Kapasara Area and their names figured in different records i.e. the wage pay sheets, bonus payment sheets and identity register maintain-

ed on such workmen. Subsequently the committee constituted by the employer for screening such eligible workers did not find the concerned persons at the worksite during the visit of the committee in the month of November, 1978 as the concerned persons had gone away to their village home for observing chhat festival. The committee being satisfied on verification submitted its report to the employers in this regard. The concerned 16 persons came back in the Colliery after chhat Festival and started their work as casuals under their respective gang sirdars. The concerned persons were paid wages through their gang Sirdar but their employment was within the knowledge of the employer. Although their attendance were marked in the employers register, their payment at the last stage was stopped and the management refused to take them on their regular roll. Thus the said action adopted by the employer was discriminatory as the employer had regularised $159+9=168$ workmen and denied the same treatment to the concerned 16 workmen although the position of all the 184 workmen was on the similar footing. There was no reason for differential treatment in the face of the report of the committee set up by the employer. On the above facts it is prayed that the concerned 16 persons should be regularised on direct roll of the employer from the date their counter part were regularised and that the payment which has been stopped by the employer should be made to them.

The case of the management is that the sponsoring union Koyala Mazdoor Congress is a registered union in the State of West Bengal and it is not competent to operate in the State of Bihar where the Central Pool is located. Sometimes in the later half of 1978 the different trade union working in the central pool, which did not include Koyala Mazdoor Congress, brought to the notice of the management that some persons were working as wagon loaders and their names were not on the rolls of the company. Therefore the area management formed a committee consisting of sub-Area Manager, Area Dy. Personnel Manager and others to scrutinise the names submitted by different trade union. The said committee had 2 sittings in which they scrutinised the names, interviewed the persons concerned and submitted its report to the Area Management. The said report was forwarded to the Head Office and thereafter 168 persons who were actually found to be working in the Central Pool were taken on the rolls of the management and thereafter the matter ended.

It transpires that having received information of the aforesaid action taken by the management, some of the persons who had never worked in the wagon loading work of the management are trying to get themselves inducted illegally and the 16 concerned persons of the present reference are amongst those persons who had never worked in the wagon loading work of the management. There was at no time employer-employee relationship between the management and the concerned persons. In view of the above facts it is submitted by the employer that the demand of the sponsoring union that the 16 concerned persons should be taken on the direct roll of the Colliery is without any justification or merit and as such it is prayed that the Award be passed in favour of the management holding that the concerned persons : not entitled to any relief etc.

The points for decision are :—

- (1) Whether there was employer-employee relationship between the management and the concerned persons and
- (2) Whether the concerned 16 persons should be regularised as wagon loaders on the direct rolls of the management.

The workmen examined four witnesses and the management examined 2 witnesses in support of their respective case. The workmen exhibited documents which are marked Ext. W-1 to W-17. The documents of the management are marked Ext. M-1 to M-5.

It will appear from the case of the workmen in para-4 of their W.S. that a total number of 212 workmen had been working as floating workers/wagon loaders in Central Pool unit of Kapasara area since 1975 and that on agitation of various functioning union in the Central Pool so

taking the floating workers on the direct roll of the company, the management constituted a committee to find the eligibility of the said floating workers to be taken in the company's roll. It is further stated that the said committee prepared a list of 184 such persons for taking them on the company's roll but the management vide implementing the said decision regularised 159 floating workers in the first lot and 9 in the second lot total being 168. It is stated that out of the list of 184 persons submitted by the committee 168 were taken on the roll of the company and the remaining 16 were left out and thus 16 left out persons are the concerned persons whose case has been referred to this Tribunal for adjudication. In para-5 of the W.S. of the workman it is further stated that the concerned 16 persons however continued working in the Central Pool of Kapsara Area and their names were mentioned in different records of the management. The committee constituted for screening such eligible workers did not find the concerned 16 persons at the work site during its visit of the Colliery in the month of November, 1978 as the concerned persons had gone away to their village home for observing chhat festival. WW-1 Subhas Sethi is one of the concerned person. He has stated that he was continuously working in the Central Pool Kapsara Colliery as wagon loader since 1978 and that they were called floating labour. He has stated that the management set up an enquiry committee to find out the persons who are working as floating wagon loaders and that after enquiry the management took 168 wagon loaders in employment who were already working there but the concerned 16 persons were not taken in employment by the management. He has further stated that at the time of enquiry the concerned persons were not present in the Colliery and had gone out to different place to celebrate chhat and as such they were not taken in the employment. He has further stated that the concerned persons worked in the Colliery till 10-2-83 and thereafter the management stopped their work. In cross-examination he has stated that Sl. No. 1, 2, 3, 4, 12, 13 and 14 of the schedule to the order of reference belong to Bihar and the rest of the concerned workmen belonged to the State of Orissa. He has further stated that one of the concerned workman Saif Alam is a Muslim who did not celebrate chhat festival. He has also stated that the Oriya people do not celebrate chhat. Thus it appears from his evidence that there were only 7 of the concerned workmen belonging to the State of Bihar in whose family Chhat festival was performed and no chhat was performed in the family of the rest of the concerned workmen and as such chhat festival was of not much importance to the Oriya persons and the Mohammedan so as to give them reason to take leave to perform Chhat festival. WW-2 is also one of the concerned workman. He has stated that since 1978 he along with other concerned workmen were working as wagon loader at Central Pool Kapsara Colliery siding. He has stated that in all 184 wagon loaders were working in the said siding and that in November 1978 all the concerned persons had gone on leave during the Chhat festival. He has stated that during their absence Shri Verma, Dy. Personnel Manager had made an enquiry regarding them. It will thus appear from his evidence that Shri Verma, Dy. P. M. had made an enquiry during their absence when they had gone for chhat festival and it is therefore admitted that Shri Verma Dy. P. M. had also made an enquiry regarding the floating wagon loaders who were still working whose services were not earlier regularised. WW-3 Shri B. N. Singh is a trade unionist and was in the Koyala Mazdoor Sabha of India from 1969 to 1983. He has stated that Bihar Koyala Mazdoor Sabha was registered sometime in the year 1984-85. He has further stated that a committee headed by Shri Saron had made enquiry and all the persons whose names were recommended by Shri Saron were taken in service. WW-4 Shri B. N. Mitra has retired from the service of E.C.L. He has stated that he had worked in Kapsara Central Pool as Central Pool incharge from 1977 to September, 1984. According to him there were about 500 to 600 wagon loaders in the Central Pool out of which 1/2 of them were floating wagon loaders and were not on the rolls of the management. He has stated that there was a committee set up to screen and verify the floating casual wagon loaders and that after the verification by the committee the names of the casual wagon loaders was published after the approval of the head office. He was unable to say the names of the 16 concerned person who were asked not to be taken on the roll of the casual wagon loader.

MW-1 is Shri B. S. Verma who had worked as Sr. P.O. in Kapsara sub-area from 1978 to 1981. He has stated 837 GI/90-1

that the Central Pool has a wagon loading section for a group of Collieries of E.C.L. He has stated that in 1978 the management got information through trade union that there were some floating wagon loaders working in the Central Pool and thereafter a committee was appointed by the Area Office to enquire about the floating wagon loaders. He has stated that the said committee submitted its report Ext. M-2 which contains the signature of the committee members. He has further stated that the said committee had asked him to physically verify the floating workers of the Central Pool and after verification he submitted his report Ext. W-11 including the statement indicating the names and address of the floating wagon loaders. The said list is marked Ext. M-3 which actually forms part of Ext. W-11 but the workmen had filed Ext. W-11 only without the list containing the name of the floating wagon loaders and the said Ext. M-3 has been filed by the management. He has stated that in Ext. M-3 he has given a list of the workmen who had gone home and that the concerned persons referred to in the schedule of the reference were not those persons whose names he has stated in the list Ext. M-3 showing to have gone home. He has further stated that those who were verified and found physically present were regularised as wagon loader by the management. Thus from the evidence of the workmen and the management witness the documents relating to the verification of the floating wagon loaders are of importance as that would show the persons who were taken on the roll of the company and the persons who were not found to have worked as floating wagon loaders.

Ext. M-2 is a report of the floating wagon loaders in the then Magma area which was subsequently known as Kapsara area. It will appear from this report that the committee consisting of 5 persons was constituted to enquire into the existing wagon loaders on the roll and to identify certain persons reported to be working as floating strength out of roll. It appears that the committee examined the case of 155 persons on 17th and 20th July 1978 in the office of the sub-area Manager, Kapsara who claimed to be working in Magma Central Pool. In addition to 155 it is also informed that the 12 Oriya ex-wagon loaders of Badina Colliery are also working in the Central Pool who were not present during the above proceeding. The committee decided that their case will be examined on some other date after giving information to them and that after giving proper information to them the committee set on 14-9-78 in Badina Sub-Area Office to examine the case of those 12 Oriya ex-wagon loaders and in addition the committee also considered the representation by the Secretary, R.C.M.S. in respect of Shri Kapil Goura. The committee after examining case of the above 13 persons found that those 13 persons had worked in 1973-74 and the list of those 13 persons were also attached. The committee was of the opinion that their case may also be considered favourably to include their names as casual wagon loaders for central pool. MW-1 Shri B. S. Verma in the last line of his examination-in-chief had stated that Ext. M-5 is the photo copy of the list of workers interviewed by the committee constituted by the area. This Ext. M-5 is an enclosure to Ext. M-2 and it bears the signature of the committee members dated 20-7-78. Ext. M-5 is the list of workmen interviewed for Central Pool Kapsara sub-area in which the name of the wagon loader interviewed his father's name, date of interview, address etc. is given. The list in Ext. M-5 consists of 155 wagon loaders. The 155 wagon loaders named in the list Ext. M-5 are those 155 persons who were interviewed by the committee on 17th and 20th July, 1978 as stated in Ext. M-2. The said list Ext. M-2 does not contain the name of the concerned 16 persons.

It will appear from the evidence of WW-2 and WW-1 that they had gone to their village home in the month of November, 1978. The committee in Ext. M-2 had examined the case of 155 persons on 17th and 20th July, 1978 and 13 persons on 14-9-78. Thus it will be clear that the concerned workmen had not gone to their home when the committee had examined the case in the month of July and September, 1978.

MW-1 has clearly stated that the committee which was appointed by the Area office to enquire about the floating labours had asked him (MW-1) to physically verify the

floating workers of the central pool and after verification he submitted his report Ext. W-1, enclosed with the list Ext. M-3 Ext. W-11 dated 6-11-78 is a report of MW-1 Shri B. S. Verma which he sent to the Personnel Manager, Mugma area. It will appear from the said report that on verbal instruction of the Personnel Manager he went to central pool site on 3-11-78 noon without giving any information to assess the number of floating wagon loaders. During the assessment at the site he found 169 irregular workers actually working apart from the regular workers. He took down their names, father's name and their address after calling them one by one. Besides them 18 workers were not present as informed to him by their gang sirdars as they had gone home for celebration of chhat puja. Thus the total number including those who had gone to their village during chhat puja comes to 187. Ext. M-3 is the original list which was submitted by MW-1 along with his report Ext. W-11. Its photo copy also has been filed in this case. On perusal of Ext. M-3 it will appear that the name of the wagon loaders has been given gangwise and that MW-1 had found 169 persons actually working as wagon loaders at the central pool. The last page i.e. page No. 18 of Ext. M-3 gives the names of the 18 wagon loaders who were not present but their names were stated by the gang leaders stating that those 18 persons had gone to their village home during chhat festival. This list of 18 also is given gangwise. The said list of 18 wagon loaders who were reported to have gone to the village home for chhat festival by the gangmen did not include the names of the concerned 16 persons. It is clear therefore that as the concerned 16 persons were not working in the Central Pool and had not gone to their village home during chhat festival, their names were not stated by the gang leader as the persons who had gone to celebrate chhat festival. The names of the 18 persons who had gone to the celebrate chhat festival were entirely different and as such it is clear that even list Ext. M-3 does not contain the names of the concerned 16 persons.

The facts of the case as stated by the workmen in para-4 of the W.S. of the workmen is that they were the 16 persons tort out of the 184 persons as they had gone to celebrate chhat festival. On the contrary 184 persons whose list was prepared by the committee for giving them employment did not include the name of any of the 16 concerned workmen. The subsequent report of MW-1 who had verified in November, 1978 did not find the concerned workmen to have gone to celebrate chhat festival and the persons who had gone to celebrate chhat festival were 18 persons who were other than the concerned workmen. It will thus be clear that the case of the workmen as propounded in their W.S. and the evidence does not find support from the documents of the committee which had actually verified wagon loaders working in the central pool.

Ext. M-1 is the Attendance Register of the Wagon Loaders for the month ending 17-2-79. It also includes the attendance of the workmen for the month ending 17-3-79, 17-4-79, 17-5-79, 17-6-79 and 17-7-79 with which we are not concerned as admittedly the attendance of the concerned persons is not included in the attendance register for the months ending 17-3-79 to 17-7-79. Ext. W-9 is the specific attendance sheet of 17-2-79 in which the attendance of some of the concerned persons is noted. WW-1 has stated that the concerned persons worked in the said colliery till 10-2-87 but it is strange that the attendance of the concerned persons was not marked after the month ending 17-2-79. WW-4 Shri B. N. Mitra has stated that there were about 500 to 600 wagon loaders at the central pool and out of them 1/2 of the wagon loaders were casual/floating casual wagon loaders and that the casual/floating wagon loaders were not on the roll of the management. If what he has stated that the casual wagon loaders were not on the roll of the management, then it is difficult to believe his evidence that attendance register Ext. W-9 for the month ending 17-7-79 was a genuine attendance register containing the attendance of some of the concerned persons. He has further stated that after 2 weeks of attendance shown in Ext. W-9 the management directed that the names of the concerned persons mentioned in Ext. W-9 will not be included in the attendance register. Ext. M-4 and M-4/1 are the

attendance registers of wagon loaders of the central pool from 18-3-81 to 17-5-81 and from 17-2-82 to 17-3-82 respectively which admittedly does not contain the names of any of the concerned persons. There is no attendance register or any evidence to the effect that the attendance of the concerned persons was ever marked in the Attendance Register except in Ext. W-9 for the month ending 17-2-79. On perusal of Ext. W-9 it will appear that the names of only 4 of the concerned persons is mentioned for the week ending 17-2-79 and at other place in Ext. M-9, the attendance of 5 other concerned persons also appears to be mentioned. But it is clear from Ext. M-9 that the name of all the 16 concerned persons is not mentioned in it. On the basis of the said attendance for the month ending 17-2-79 wage sheets Ext. W-10 and W-10/1 was prepared. MW-1 Shri B. S. Verma has stated that Ext. W-10 is the wagesheets of wagon loaders for the month ending 17-2-79. He had checked the said wagesheets of the wagon loaders and had put cross-mark and some note in red ink against the persons who were not found working in the last column of Ext. W-10. On perusal of Ext. W-10 it will appear that a cross mark in red ink in the last column is made against Sl. No. 10, Sl. No. 12, Sl. No. 14, Sl. No. 15, Sl. No. 16 of Ext. W-10. It will further appear that in the next page of the wagesheets against Sl. No. 40, 41, 42 and 44 and in the wagesheets Ext. W-10/1 bearing Sl. No. 14, 15, 16 the total earning payable are encircled in red ink and note is written in the last column "not to be paid." The amount shown to be paid to the concerned persons in the said wagesheets was admittedly not paid to the concerned persons. But the concerned persons did not take any step till sometime in the year 1985-86 when the present industrial dispute was raised. MW-1 has clearly stated that the persons not found working were crossed and not written against their name in the last column of Ext. W-10. He has further stated in the cross-examination that he had verified the names in Ext. W-10 with reference to the verification report (Ext. W-11 and Ext. M-3) which he had prepared. WW-4 Shri B. N. Mitra was the person who has signed in Ext. M-1 and specially Ext. W-9 as incharge in the attendance register. In his examination-in-chief itself he has stated that the names of the casual wagon loaders were not included in wagesheets and that the wages of the casual wagon loaders were prepared in the name of the regular wagon loaders and thereafter the regular wagon loaders used to distribute the wages to the casual wagon loaders. Thus it appears from his evidence that wagesheets were not prepared in respect of the casual wagon loaders. If so, it is strange as to how the names of some of the concerned persons were included in the wagesheets Ext. W-10 and W-10/1. It is evident from the evidence that neither the Attendance Register nor the wagesheets were prepared in respect of the concerned persons and as such there appears to be no doubt that there has been some attempt on the part of some of the employees of the management including WW-4 in manufacturing the attendance of the concerned persons in the Attendance Register and in the wagesheets Ext. W-10 and W-10/1. It was for this reason that MW-1 did not allow the wages to some of the concerned persons whose wages were shown in Ext. W-10 and W-10/1 as MW-1 had himself after verification at the spot had come to the conclusion that the concerned persons were not working as wagon loaders at the central pool and that the plea of the concerned persons that they had gone away to their village home during chhat festival in the month of November, 1978 was not true.

WW-1 has stated that in 1979 the photo of all the wagon loaders was taken by the management and photo copy of those photo has been filed by the workmen and is exhibited as Ext. W-7. In cross-examination he has stated that he had seen Ext. W-7 in 1979 but he does not remember as to who had shown Ext. W-7 to him. He does not know as to where the original of Ext. W-7 has been kept. It will further appear that Ext. W-7 was not filed before the conciliation officer during the conciliation of this case. WW-4 has stated that Ext. W-7 does not bear the signature of any officer nor it bears his signature. He also was unable to say as to who had written on the back of the first page of Ext. W-7. He has further stated that the identity card register was not maintained by the central Pool and he was

also not aware if any identity card register of the central pool was being maintained at the sub-area office. He has further stated that he had never seen the said identity card register of the central pool at the sub-area office. On perusal of Ext. W-7 it will appear that it is not an identity card register as the particulars of identity card register contain the date of appointment age etc. of the persons concerned are not stated in Ext. W-7. Moreover there is no evidence to the effect that any of the WVs had seen any identity card register being maintained at the central pool or at its sub-area office. Thus the filling of Ext. W-7 cannot establish that the concerned persons were the wagon loaders of the management working at the central pool. Moreover, it will appear from Ext. W-10 and Ext. W-10|1 that the wages of some of the concerned persons for the week ending 17-2-79 were not allowed and as such it is hard to believe that the management would arrange for taking the photo of the concerned persons in the identity card register. In the above view of the matter Ext. W-7 also cannot be said to be a reliable piece of evidence for establishing the case of the concerned persons.

The Registers Exts. W-2, W-3, W-4, W-5, W-5|5 are written by WW-1 who is one of the concerned persons. He has stated in his cross-examination that Ext. W-2, W-3 and W-4 were written by him from the year 1980 to 1987 and that those registers were in his possession and had not been shown to the authorities of the central pool. These copies registers are written by WW-1 and were neither produced before the management nor before the conciliation officer. These documents saw the light of the day only when they were filed in this case before the Tribunal. These are all self serving documents having no connection to show that it was maintained at the instance of the management or that the wages was paid on the basis of the entries made in these registers. In my opinion these registers could be manufactured at any time and as they were never produced before any authority prior to its filing in this case, I hold that they are not at all reliable evidence so as to pin faith to establish the case of the concerned persons.

Taking all the facts, evidence and circumstances of the case into consideration I hold that there was no employer-employee relationship between the management and the concerned persons as the evidence shows that the concerned persons had not worked as floating wagon loaders in central pool.

Point No. 2

In view of the finding made above in relation to point No. 1, I hold that there is no case to regularise the concerned 16 persons as wagon loaders on the direct rolls of the management.

In the result, I hold that the demand of Koyala Mazdoor Congress that the management of Kapsara colliery of M/s. Eastern Coalfields Ltd. showed regularise the 16 concerned persons on the direct rolls of the colliery is not justified and consequently the concerned persons are not entitled to any relief.

This is my Award

I. N. SINHA, Presiding Officer

[No. L-20012(186)|86-D.III(A)|IR(Coal-I)]

नई दिल्ली, 16 मार्च, 1990

का.आ. 868:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार, भैरम सेंट्रल कोलफिल्ड्स लि. की के.डी.एच. कॉलियरी के प्रबन्धन में सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच, अन्वय में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. 1) घनदांड के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार की 2-3-1990 का प्राप्त हुआ था।

New Delhi, the 16th March, 1990

S.O.868.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 1) Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of K.D.H. Colliery of M/s. Central Coal Fields Ltd. and their workmen, which was received by the Central Government on the 2-3-1990.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947.

Reference No 128 of 1989.

PARTIES :

Employers in relation to the management of K.D.H. Colliery of M/s. Central Coalfields Ltd.

AND

Their Workmen

PRESENT :

Shri S. K. Mitra,
Presiding Officer.

APPEARANCES :

For the Employers.—None.
For the Workmen.—None.

STATE : Bihar.

INDUSTRY : Coal

Dated, the 21st February, 1990

AWARD

By Order No. L-20012|29|88-D.III(A), dated, the 6th October, 1989, the Central Government in the Ministry of Labour, has, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :—

“Whether Shri Sadhu Lohar is the dependent son of Smt. Darshan Loharin ? If yes, what relief Smt. Dharshan Loharin is entitled to in terms of para 9.4.3 of NCWA-III ?”

2. The term of reference of the present industrial dispute was received in the office of this Tribunal on 18-10-1989. It appears from the term of reference that the dispute was raised by the President, Hind Mazdoor Kishan Panchayat Vill—Tukbera, P. O. Kanda, Dist. Palamau, for and on behalf of the concerned workman, Sadhu Lohar. After receipt of the term of reference neither the sponsoring union nor the concerned workman filed statement of claim in support of the case. Several notices were issued to the sponsoring union directing it to appear and to file statement of claim. But no response was received. Even the management, in spite of the notice, has failed to appear. In the circumstances, I have reason to believe that neither the sponsoring union nor the concerned workman is interested in prosecuting the case. Hence, I am constrained to pass a ‘no dispute award’ in the present industrial dispute.

This is my award.

S. K. MITRA, Presiding Officer

[No. L-20012(29)88-D.III(A)|IR(Coal-I)]

का.अ. 869:—औद्योगिक विवाद, अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसेस भारत कोकिंग कोल लि. की भागबाद कोलियरी के प्रबन्धतंत्र से संबद्ध निवासकों और उनके कर्मचारों के बीच, घनबन्ध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (सं. 2), धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-3-1990 को प्राप्त हुआ था।

S.O. 869.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Bhagaband Colliery of M/s. Bharat Coking Coal Ltd. and their workmen, which was received by the Central Government on the 5-3-1990.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT:

Shri I. N. Sinha, Presiding Officer.

Reference No. 37 of 1985

In the matter of an industrial dispute under Section 10(1)(d) of an I.D. Act, 1947

PARTIES:

Employers in relation to the management of Bhagaband Colliery of Messrs Bharat Coking Coal Limited and their workmen.

APPEARANCES:

On behalf of the workmen—Shri S. Bose, Secretary, R.C.M.S.

On behalf of the employers—Shri R. S. Murthy, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dhanbad, the 16th February, 1990

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012 (383)/84-D.II(A), dated, the 11th April, 1985.

SCHEDULE

"Whether the action of the management of Bhagaband Colliery of Messrs Bharat Coking Coal Limited in not placing before the D.P.C., the names of S/Shri Kalika Singh, M. K. Sarkar and S. N. Sinha who have been working in clerical Grade-I, for consideration for promotion to clerical Special Grade, was justified? If not, to what relief are these workmen entitled?"

Both the parties had filed their W.S. and their documents. They also examined one witness on each side. The case was thereafter fixed for hearing/argument.

Subsequently on 31-1-90 Shri S. Bose, Secretary, R.C.M.S. union, which had raised the industrial dispute, filed a petition before the Tribunal. It is stated in the petition that during the pendency of the case out of the 3 concerned workmen one of them Shri Kalika Singh has since retired from service and expired in his village home few years ago.

The other concerned workmen Shri S. N. Sinha has since superannuated and the 3rd concerned workman Shri M. K. Sarkar has been promoted to higher grade as was being claimed by him. It is submitted on behalf of the workmen that in the circumstances there remains no dispute and that an Award may be passed as it may deem fit and fit proper.

As there remains no dispute on behalf of the concerned workmen and the action of the management is not challenged by the workmen the Award is accordingly passed.

I. N. SINHA, Presiding Officer

[No. L-20012(383)/84-D.III(A)/IR(Coal-I)]

का.अ. 870:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मैसेस भारत कोकिंग कोल लि. का गोविन्दपुर क्षेत्र सं. 3 के प्रबन्धतंत्र से सम्बद्ध निवासकों और उनके कर्मचारों के बीच, घनबन्ध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. 1), धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-3-90 को प्राप्त हुआ था।

S.O. 870.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal (No. 1) Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Govindpur Area No. III of M/s. Bharat Coking Coal Ltd. and their workmen, which was received by the Central Government on the 5-3-1990.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947.

Reference No. 4 of 1983

PARTIES:

Employers in relation to the management of Govindpur Area No. III of M/s. B.C.C. Ltd.

AND

Their workmen.

PRESENT:

Shri S. K. Mitra, Presiding Officer.

APPEARANCES:

For the Employers—Shri B. Joshi, Advocate.

For the Workmen—Shri D. Mukherjee, Advocate. (Ad sent on the date of final hearing).

STATE : Bihar.

INDUSTRY : Coal.

Dated, the 22nd February, 1990

AWARD

By Order No. L-20012(107)/82-D.III(A), dated, the 10th/14th January, 1983, the Central Government in the Ministry of Labour, has, in exercise of the powers conferred by the clause (d) of sub-section (1) of section 10 of the Industrial Disputes, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether promotions of ministerial staff by the Area Management No. III of Messrs Bharat Coking Coal Limited, Dhanbad in deviation of promotion policy laid down in the BCCI circular No. BCCI/PA-II/77/31000-80, dated 20th June, 1977 are justified? If not, to what relief are the workmen concerned who are senior to such promotees entitled?"

2. The case of the management of Govindpur Area No. III of M/s. BCC Ltd., as spelt out in the written statement submitted, details apart, is as follows :

The present reference is not legally maintainable since the names of the workmen on whose behalf the present dispute has been raised do not appear in the term of reference. Besides there can be no existence of industrial dispute as no demand was raised on behalf of any workmen who are aggrieved by the action of the management. The substantive case of the management is that promotion is the function of the management and the number of posts to be filled up by promotion remains fixed. In case any workman has been favoured and promoted in contravention of the norms of promotion it will not give any right to the persons who are similarly situated to be promoted to the next higher grade. The aggrieved persons can pray to the Tribunal to quash an irregular promotion and to direct the management to reconstitute a fresh D.P.C. to re-examine the issue afresh. In such a situation the workmen who have been favoured by the management should have been made party in the present reference so that in their presence the present dispute could have been adjudicated. The present reference is vague, indefinite and misleading and as such it is not maintainable. The management has a promotion policy for clerical staff and all the promotions are effected in accordance with the said promotion policy. All the factors relevant for the promotion are considered at the time of promotion. According to Promotion Policy seniority amongst all the clerks of the colliery is considered while promoting from Grade-III to Grade-II whereas in the case of promotion of clerks from Grade-II to Grade-I and Grade-I to Special Grade, the seniority is considered area-wise. All promotions are effected on the basis of recommendations of D.P.C. Several workmen including clerical staff made representation before the management that although they had been working on jobs of higher grade they were kept on the lower grade by the private management as well as by the present management has got a policy of regularisation under which if a workman continues to work in a permanent vacancy for more than six months continuously to the full satisfaction of the management he is regularised in that post. Under that scheme some workmen were regularised on higher posts at the instance of the union, by the Awards passed by the Tribunal and so on. The present union is also a party to such demand for regularisation. In the absence of specific case, the detail statement in respect of the workmen cannot be made. In the absence of any settlement or award binding on all the unions, the management has followed the promotion scheme as well as the regularisation scheme according to the demands of the unions for maintenance of industrial peace after considering each case on individual merit. In the circumstances, the management has prayed that the present reference be dismissed.

3. It appears that the Secretary, BCCL Staff Co-ordination Committee, Govindpur Area, raised this present industrial dispute. The case of the sponsoring union as disclosed in its written statement submitted by it, briefly stated, is as follows :

The management of Area No. III published a seniority list of clerks Grade-I and Grade-II with all descriptions on 16-7-77. A copy of the said list is annexed with the written statement as Annexure 'W'. The management of M/s. BCC Ltd. formulated a cadre scheme for promotion of clerical staff of M/s. BCC Ltd. by circular No. BCCI/PA-11/77/31000-80 dated 28-6-77. As per the aforesaid cadre scheme/promotion policy all promotions of clerks from Grade-II to Grade-I should be effected on the basis of seniority and all promotions from clerk Grade-I to special Grade should be made on the basis of seniority-cum-suitability subject to clearance by D.P.C., but actual practice was to promote the workmen on the basis of seniority alone. The management of Area No. III of BCC Ltd. is very much biased and prejudiced against the members of Staff Co-ordination Committee. It is alleged that the management with an ulterior motive to victimise the members of Staff Co-ordination Committee has promoted junior workmen in violation of cadre scheme/promotion policy. The manage-

ment of Area No. III had resorted to regularise all junior workmen occasionally in higher post to circumvent the promotion policy/cadre scheme. The Staff Co-ordination Committee protested against the promotion/regularisation of the junior workmen in violation of the cadre scheme/promotion policy by citing specific instances. The management by letter dated 19/22-1-79 informed the union that all promotion/regularisation have been done strictly according to the cadre scheme. The management also intimated the Secretary, R.C.M.S., Shri G. D. Pandey, that all promotions have been done strictly on seniority basis. Seeing anti-labour and discriminatory attitude of the management, the union raised an industrial dispute before the Asstt. Labour Commissioner (C), Dhanbad. During the conciliation proceeding the union cited specific instances of violation of cadre scheme/promotion policy. The union cited the instances of promotion of S/Shri B. K. Misra, N.D. Tiwary, Indra Sen Prasad, Parabhans Singh, H. K. Jha, V. K. Worah, S. P. Das, S. P. Lala, R. B. Sahay etc. A list of junior workmen promoted as Grade-I Clerk with date of their promotion is annexed with the written statement and marked as Annexure 'W-1'. S/Shri B. K. Misra and N. D. Tiwary were in serial Nos. 277 and 274 respectively in the seniority list and were originally appointed as Category-I Mazdoor whereas other senior workmen in Annexure 'W' were originally appointed as Clerks. All the concerned workmen whose names appear in Annexure 'W' have been working as Grade-II clerks since long with unblemished record of service. It is alleged that the management promoted junior workmen superseding the senior workmen in order to victimise the concerned workmen for their affiliation to Staff Co-ordination Committee. In the matter of promotion of Clerk Grade-I to Special Grade the prevailing practice is to promote the senior workmen and for that reason the promotion of S/Shri H. N. Kapoor and P. K. Ghose were cancelled by the management. The concerned workmen, however, challenged the cancellation order and Hon'ble Tribunal restored their posts. Promotion of junior workmen in Special Grade denying the legal and justified claim of the other workmen in violation of prevailing practice and promotion policy is illegal and unjustified. The list of junior workmen promoted in Special Grade with their dates of promotion is annexed in the written statement and marked as Annexure 'W-2' and the names of junior workmen who were denied promotion is also annexed and marked as Annexure 'W-3'. The Staff Co-ordination Committee after exhausting all avenue for amicable settlement raised the present industrial dispute. The action of the management in promoting junior workmen superseding the concerned workmen in violation of the circular mentioned above is illegal and unjustified. The action of the management in promoting ministerial staff in deviation of promotion policy is contrary to settled law and smacks of anti labour policy of the management. The concerned senior workmen are entitled to be promoted to Grade-I and Special Grade clerks from the date of their juniors were promoted in deviation of the circular with full consequential benefits.

4. In rejoinder to the written statement of the sponsoring union, the management has denied all the allegations made against it and stated that correct interpretation of the circular cited in the written statement of the sponsoring union will be given at the time of hearing. The management has asserted that it formulated a policy of regularisation of workmen in consultation with major trade unions functioning in the coal industry. According to that scheme workmen working in higher category job is regularised on that job. This has got nothing to do with seniority, and the rules of regularisation is not to circumvent the provisions of the promotion/policy or cadre scheme. The workmen named in the written statement of the sponsoring union were not given scale of pay by the erstwhile management. After nationalisation the present management utilised them in performance jobs of higher responsibility because of their special knowledge, qualification and experience, and they were regularised on the basis of representations of the unions. Shri K. K. Dutta, Secretary of the Staff Co-ordination Committee, who has signed the written statement was regularised as Grade I Clerk although he was junior to other clerks in consideration of the demand raised by the sponsoring union on his behalf. The entire approach of the union is

malafide and the action of the management is correct and justified.

5. In rejoinder to the written statement of the management the sponsoring union has reiterated that the action of the management in promoting some junior workmen to higher post superseding some senior workmen is not justified.

6. At the instance of Shri B. Joshi, Advocate, appearing for the management, the question whether the present reference is maintainable or not has been considered as preliminary issue. It has been held that the present reference is maintainable and the sponsoring union is competent to raise the present industrial dispute.

7. The crux of the present dispute is whether the promotions of ministerial staff by the Area Management No. III of M/s. BCC Ltd., Dhanbad, in deviation of promotion policy laid down in BCCL Circular No. BCCL/PA-II/77/31000-80 dated 20-6-77 are justified or not. This being the position, it is necessary to explore as to what is the promotion policy of M/s. BCC Ltd. and what policy guideline was laid down in the circular as aforesaid and whether the management has deviated from the promotion policy and the circular. Naturally specific instances of deviation are required to be cited and that has been done in the written statement of the sponsoring union. In these view of the matter this Tribunal will not grope in darkness as to who are the workmen affected by the action of the management.

Shri Joshi has contended that the terms of reference is vague and indefinite. But since specific instances have been provided by the sponsoring union where the management has deviated from its promotion policy and the guideline of the promotion has spelt out in the circular, the apparent veil of vagueness has been lifted.

8. Upon the pleadings of the parties arrayed it appears as an admitted position that according to the promotion policy seniority amongst all clerks of the collieries is considered while promoting clerks from Grade-III to Grade-II whereas in other case of promotion from Grade-II to Grade-I and from Grade-I to Special Grade, the seniority is considered area-wise and that all promotions are effected on the basis of D.P.C.

9. Apart from this well-laid promotion policy, it is the case of the management that it has a policy of regularisation arrived at on the demand of the union for regularisation of workmen working in permanent vacancy for more than six months continuously to the satisfaction of the management. Besides, workmen discharging the duties of higher jobs because of their special knowledge, qualification and experience are regularised in the higher post on the basis of the individual merit and on representation of the union. That the management has got a policy for regularisation has not been disputed by the sponsoring union. The management has cited instance of Sri K. K. Dutta, Secretary of the sponsoring union who was regularised as Clerk Gr. I although he was junior to other clerks. This statement of fact has not been denied by the sponsoring union.

10. Anyway, the management has asserted that all the specific cases cited by the sponsoring union do not come under the pervue of promotion but come under the pervue of regularisation. In other words, the management has not deviated from its promotion policy in having promoted the workmen named in the written statement of the sponsoring union and that these workmen were simply regularised in higher posts because of their discharging of duties of higher posts. The sponsoring union has not been able to counter this position either by leading evidence or by citing any other specific instance. Hence, I cannot but conclude that the sponsoring union has failed to establish its case that the management has deviated from its promotion policy as enshrined in the circular No. BCCL/PA-II/77/31000-80 dated 20-6-77.

11. Accordingly, the following award is rendered—that the promotions of ministerial staff by the Area Management No. III of M/s. B.C.C. Ltd. is justified as it is not con-

sidered in deviation of circular of M/s. BCC Ltd., No. BCCL/PA-II/77/31000-80 dated 20-6-77.

In the circumstances of the case, I award no cost.

S. K. MITRA, Presiding Officer

[No. L-20012(107)/82-D.IIIA/IR(Coal-I)]

का आ 871--औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार, इसमें भारत कोकिंग कोल लिमिटेड की कुसुन्दा कोलियरी के प्रबन्धन से सम्बन्धित विवादों और उनके कर्मचारियों के बीच, अन्तर्गत में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिनियम (नं. 1), अन्तर्गत के पक्षों को प्रकाशित करता है, जो केन्द्रीय सरकार को 2-3-1990 को प्राप्त हुआ था।

S.O. 871.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 1) Dhanbad as shown in the Annexure in the industrial dispute between employers in relation to the management of Kusunda Colliery of M/s. Bharat Coaking Coal and their workmen, which was received by the Central Government on the 2-3-1990.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947.

Reference No. 80 of 1989

PARTIES :

Employers in relation to the management of Kusunda Colliery of M/s. B.C.C. Ltd.

AND

Their Workmen.

PRESENT :

Shri S. K. Mitra, Presiding Officer.

APPEARANCES :

For the Workmen : Shri D. Mukherjee, Secretary,

For the Employers : Shri B. Joshi, Advocate.
Bihar Colliery Kamgar Union.

STATE : Bihar.

INDUSTRY : Coal.

Dated, the 21st February, 1990.

AWARD

By Order No. L-20012(112)/88-D. IV(A) I.R. (Coal-I), dated, the 14th June, 1989, the Central Government in the Ministry of Labour, has, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :—

"Whether the demand of Bihar Colliery Kamgar Union that the action of the management of Nayadih Kusunda of M/S. B.C.C. Ltd. in not regularising Shri Misri Bhuiya and Bali Bhuiya working as Night Guard and not paying proper scale of Night Guard to them is justified or not? If not, what relief the workmen entitled?"

2. The order of reference of the present industrial dispute was received in the office of this Tribunal on 26-6-1989. It appears from the term of reference that the Secretary, Bihar Colliery Kamgar Union, Hirapur, Dhanbad has raised the present industrial dispute on

behalf of the concerned workmen S. Shri Mistri Bhuiya and Bali Bhuiya.

3. Shri D. Mukherjee, Secretary of the sponsoring union appeared and solicited adjournments on a number of occasions for filing statement of claim. His prayer was granted, but ultimately Shri D. Mukherjee has disclosed that the workmen are not interested in prosecuting the case. Meanwhile, the management appeared through Shri B. Joshi, Advocate, but he has not taken any step as the sponsoring union has failed to file its statement of claim.

4. Anyway, it is obvious that neither the sponsoring union nor the concerned workmen are interested in prosecuting the present industrial dispute.

5. Hence, I am constrained to pass 'no dispute award' in the present industrial dispute.

This is my award.

S. K. MITRA, Presiding Officer.

[No. L-20012 (112)/88-D. IV(A)/JR (Coal)]

का. अ. 872—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वये, में, केन्द्रीय सरकार नेमर्स टाटा आयरन एंड स्टील को. लि. की पिज्जा कोलियरी के प्रबन्धकों के सम्बन्ध में निम्नलिखित शर्तों और उनके कर्मचारियों के बीच, प्रबन्धकों में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिनियम (में 1) धारा 17 के अन्वये को प्रकाशित करने है, जो केन्द्रीय सरकार को 5-3-1990 को प्राप्त हुआ था।

S. O. 872.—In pursuance of section 17 of Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 1) Dhanbad as shown in the Annexure in the industrial dispute between the employees in relation to the management of Sijua Colliery of M/s. Tata Iron and Steel Co. Ltd. and their workmen, which was received by the Central Government on the 5-3-1990.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947.

Reference No. 51 of 1984.

PARTIES :

Employers in relation to the management of Sijua Colliery of M/s. Tata Iron & Steel Co. Ltd.

AND

Their Workmen.

PRESENT :

Shri S. K. Mitra, Presiding Officer

APPEARANCES :

For the Employers : Shri S. S. Mukherjee, Advocate.

For the Workmen : Shri G. Prasad, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dated, the 20th February, 1990

AWARD

By Order No. L-20012/(177)/84-D. III (A), dated, the 30th July, 1984, the Central Government in the Ministry of Labour, has, in exercise of the powers conferred by

clause (d) of sub-section (1) of section 10 of the Industrial Disputes, 1947, referred the following dispute for adjudication to this Tribunal :—

"Whether the demand of Rashtriya Colliery Mazdoor Sangh, Sijua Branch, Dhanbad for fixing the static workload of piece-rated trammers of Pit 2, Sijua Colliery against fall-back wages is justified? If so, to what relief the workman are entitled from 1-1-1975 to 8-1-1977 and 1-1-1979 from the management of Sijua Colliery of M/s. Tata Iron and Steel Company Limited?"

2. The case of the sponsoring union, Rashtriya Colliery Mazdoor Sangh, as disclosed in the written statement submitted by it on behalf of the concerned workmen, details apart, is as follows :

The present dispute is confined to piece-rated trammers of Pit No. 2 of Sijua Colliery and does not relate to piece-rated trammers of any other pits of the colliery. The concerned piece-rated trammers are paid on piece-rated for every tub pushed by them. The rates of wages of all workmen—time rated or piece-rated are governed by agreement on national level between the various colliery management and representatives of the Trade Unions of the workmen functioning in the Coal Mines in the country. For the purpose of present reference it is enough to trace the history of the wage fixation from 15-8-67 to-date. Time-rated workmen employed in the Coal Industry, whether daily-rated or monthly rated, have been placed on a graded time scale with incremental stages every year till they reach the maximum stages of their respective pay scale. Besides, the time-rated workmen, there is a number of categories of piece-rated workmen employed in the coal mines in the country, such as, mines and trammers, who are paid by their output. For this purpose various Wage Boards and Wage Agreements have fixed a daily basic output, usually called work-load, for which the workmen concerned are paid, whether they reach basic target or not for no fault on their part. Whether or not such piece-rated workmen give their minimum quota of work every day, they are paid minimum wages called "fall back wages". Their tub-rate is also fixed on the basis of work-load of the minimum basic quota fixed in their case. The tub-rate is fixed on the basis of "fall back wages" for the day divided by the number of tubs in the work load. For example, if the basic norm is fixed at 4 tubs per day per workman and the fall back wages of the concerned piece-rated category is Rs. 12 the tub-rate fixed for each workman comes to Rs. 3 per tub. The workmen can earn more wages pro-rata if they push more than 4 tubs on each day. They, however, never received less than the fall back wages fixed for their category, even if they do not reach the minimum target on any day for no fault of theirs. The first wage agreement for workmen employed in the coal mines in the country dates back to 15-8-67 when recommendations of Central Wage Board for Coal Mining Industry in the country came into force. Although different Wage Boards and Wage Agreements have fixed the work load for piece-rated miners, no such work load has been fixed for piece-rated trammers including the trammers concerned and the matter was left to the individual collieries to be fixed by agreements with the workers. The work load in the case of trammers differs from colliery to colliery and sometime in different pits of the same colliery, depending on the particular working conditions. The work load of the concerned trammers was admittedly fixed for 4 tubs per head per day either by practice or by agreement or by convention. Their fall back wages was also fixed at Rs. 6 per day. Then, their tub rate was fixed by the TISCO management at Rs. 1.50 per tub. Beyond the number of tubs pushed by them in excess of basic 4 tubs. This position prevailed undisturbed and regardless of alterations in the working conditions for every seven years from 15-8-67 to 31-12-74 whereafter the recommendations of the Central Wage Board were replaced by N.C.W.A. No. 1 which held the field from 1-1-75 to 31-12-78. The N.C.W.A. made no change in Central Wage Board. Recommendations except by upward revision of wage structure of employees engaged in coal industry. It did not fix any work load for piece-rated trammers in coal mines and left the matter for negotiation between the management and trammers involved in the matter. In the circumstances, the pre-existing work load of 4 tubs per day for the piece-rated trammers continued undisturbed unless it was altered by negotiation between the

management of coal mines and the trammers. A negotiation in this context must be deemed to mean full talks regarding work load culminating in an agreement between the management and the trammers and it does merely mean negotiation which does not end in any agreement signed by the parties to the agreement. It goes without saying that if any negotiation does not end in an agreement as above, the pre-existing work load of trammers cannot be lawfully and properly altered and would continue as before. It does go without saying that if negotiation does not end in an agreement and yet the management alters the work load by raising the same without giving notice Under Sec. 9A of the Industrial Dispute Act or without entering into the valid settlement under the Act, it would be an unjustified and arbitrary action and as such would be inoperative, illegal and not binding on the workmen. N.C.W.A.I. came into operation on 1-1-75 and lasted till 31-12-78. This agreement has provided in para 57 thereof for the method or procedure for altering the pre-existing work load of piece-rated trammers. This grievance of the trammers concerned in that the management of TISCO's Sijua Colliery No. 2 Pit has arbitrarily raised the trammers pre-existing work load which had prevailed uninterruptedly for over seven years and which has become a condition of service without following the procedure laid down in N.C.W.A.I. The management did not comply with the provision of Sec. 9A of the Industrial Disputes Act before changing the work load and in such circumstances the action of the management shall be deemed to be void-abinitio and inoperative. Since the concerned trammers were suffering great loss as a result of increase of work load, they filed two collective applications before the Central Government Labour Court No. 3, Dhanbad, claiming their full wages at the work load of 4 tubs per day and for commutation of the benefits under Section 33-C(2) of the Industrial Disputes Act. The applications were recorded as L.C. Applications No. 36/77 and 48/88. The management filed rejoinder to the workmen's said applications denying the liability to pay the trammers. However the management admitted in its pleading that the Central Wage Board had fixed no work load for trammers concerned and their work load had been fixed 4 tubs per head per day for over seven years ending 31-12-74. The Labour Court despite all the pleadings and evidence of the applicants, agreed with the management and dismissed the applicants' claim on the ground that the matter was a subject of an industrial dispute. The applicants thereafter challenged the order of the Labour Court by a Writ Petition in the Patna High Court (Ranchi Bench) and when they lost in the Patna High, they filed an appeal before the Supreme Court by Special leave. The Supreme Court agreed with the High Court and directed the applicants to raise an industrial dispute with the TISCO management. The concerned trammers raised an industrial dispute through their union. When the management again refused to concede to the demand as made by the union, the matter was referred to the Asst. Labour Commissioner (C) who was also a Conciliation Officer, and on the failure of the conciliation proceeding, the Central Government has made this reference to this Tribunal. The demand of the trammers concerned for static work load of 4 tubs per head per day for the period 1-1-75 to 31-12-78 is eminently justified and deserves to be granted by the Tribunal. The union has prayed that the Tribunal may be pleased to declare that the demand of the workmen for static work load of 4 tubs per head per day, which was not lawfully or properly altered by the management of Sijua Colliery of per head per day and to pay them their due wages on that Pit No. 2 is carried on different portions of seam No. 12 and evolved for arriving at the rate of piece-rated trammers under from 1-1-75 the rate of trammers were fixed as per follows :

2 The case of the management as disclosed in the written statement submitted by it, briefly stated, is as follows:

The condition of work of trammer as also that of other categories of workmen varies from colliery to colliery and also from section to section for different seams/pits of the colliery. Sijua colliery is being worked through Pit No. 2 and 15 at Sijua and Pit No. 1 and 2 at Bhalatand. Working through Pit No. 2 is carried on different portions of seam No. 12 and 11. Earlier Seam No. 13 and 14 were being worked. The working condition of Seam No. 14 and 15 at the relevant time were different depending upon gradient, layout and development of various haulages and other machinery. Trammers employed in Pit, No. 2 and working in different seams have not

same or fixed work load always. Deployment of piece-rated trammers in Pit, No. 2 were fixed 17 head per shift at the relevant time. Neither Central Coal Wage Board Recommendations nor the N.C.W.A.I, II & III has fixed any work load for piece-rated trammers, the obvious reason being that the working conditions vary with the progress of work in a particular seam of the colliery and also with the installation of haulage and different machinery and also the method of mining i.e. development or depillaring as the case may be which result in considerable variation in workload. The workload of piece-rated trammers is not fixed by any Award, Recommendation, Agreement and out-turn given by the piece-rated trammers increases or decreases depending on working conditions and other factors as indicated before. The procedure involved for arriving at the rate of piece-rated trammers under various Awards, Agreement is that it is fixed after taking into account of their earnings with reference to wages available to workmen under Category-III. The procedure followed for fixing up the rates of workload is that old mid point rate of time-rated trammer is divided by old Piece-rated trammers in order to ascertain the workload at that particular time. Subsequently the new review mid point rate of time-rated trammer is divided by workload arrived at as stated before. In case the working conditions and requirement of trammers are likely to vary considerably, the piece rate is arrived at by mutual negotiation with representatives of trammers and the union. With the implementation of N.C.W.A. I with effect from 1-1-75 the rate of trammers were fixed as per procedure specified before. This was done after taking the number of thus trammed during the six weeks prior to 1-10-75 and actual attendance during that period. On the above basis the work-load arrived at was 6.60 tubs per head. In the year 1977 a new section of 13 seam was started and another haulage was commissioned. The rate was negotiated on the basis of 17 trammers per shift with a work-load of 4.61 tubs per day. With the implementation of N.C.W.A. II with effect from 1-1-79 the work-load was again worked out as per the guideline provided earlier and the same came to 4.61 tubs head and according to this the work-load the rate per head was fixed. While so fixing the rate, care was taken to show that the new rates arrived at the mid point of the scale of time-rated trammers. Thus, the work load for different periods for piece-rated trammers as follows :

- (a) With effect from 1-1-1975 it was 6.60 tubs per head.
- (b) With effect from 8-1-1977 it was 4.61 tubs per head.
- (c) With effect from 1-1-1979 it was 4.61 tubs per head.

The workload of piece-rated trammers was not fixed arbitrarily but according to guideline given by the Recommendations and Agreement and after discussion with the recognised union, namely, Rashtriya Colliery Mazdoor Sangh. The work-load of piece-rated trammers cannot be fixed permanently; it was fixed as per guideline given by the Central Wage Board Recommendations and also by subsequent Agreements. The capacity of a tub is 40.5 cft. in No. 2 Pit of Sijua Colliery. The concerned workman made a speculative demand for payment at a higher rate calculated on the basis of imaginary work-load before the Central Govt. Labour Court No. 3, Dhanbad in L.C Case No. 36 of 1977. The Labour Court by its decision dated 25-3-81 dismissed the application holding that the piece-rated trammers had no existing right to claim the amount in question on the basis of work-load and claimed that the work-load of 4 tubs was non-existence. The union filed a Writ Petition before Hon'ble High Court against the decision of the Labour Court and also in the Hon'ble Supreme Court, but without any result. In the circumstances, it has been submitted that the demand of the union for fixing static work-load of piece-rated trammers of Pit No. 2 of Sijua Colliery against fall back wages is baseless and without justification.

4. In rejoinder to the written Statement of the management, the sponsoring union has stated that work-load of the concerned trammers was fixed at 4 tubs per head per shift during the period of six weeks commencing from 1-10-74 and ending 12-11-1974. But the management of Sijua colliery, without giving notice under Section 9-A of the Industrial Disputes Act and without any settlement with trammers concerned at unit level as provided in Para 5,7

of National Coal Wage Agreement-I which came into force with effect from 1-1-75 unilaterally, illegally and arbitrarily, raised the work-load of trammers from 4 tubs to 5.62 tubs per man per shift. Under N.C.W.A.I, the wage of time-rated trammers was fixed in the scale of Rs. 11.35-0.32-14.55 and the mid point thereof was Rs. 12.95 for 4 tubs which would have worked out 3.24 per tub. But by raising the work-load to 5.62 tubs per man per shift the management reduced pro-rata rate of wages from 3.25 per tub to 2.26 per tub and thus caused illegal loss of Rs. 0.98 per tub in the basic wages. It is admitted that there are 17 piece-rated trammers in Pit No. 2 and 13 and 14 Seam. There was no variation in work-load of piece-rated trammers in Pit No. 2, 13 and 14 Seam of Sijua Colliery till 1-1-75. The work-load of piece-rated trammers was only 4 tubs per man per shift. Pit No. 2, Seam 13 and 14 of Sijua colliery is depillaring mine although the tramming distance by haulage to the pit mouth is reduced day by day in the course of depillaring of the mine in the retreating method, but the tramming distance during the incubation period in the Section where the concerned trammers had to push the loaded or empty tubs manually remained the same. From the point where the coal is loaded in the face in tubs by the loaders/miners to the haulage line remained constant and there was no variation or reduction and there would be no variation or reduction in the tramming distance from the depillaring section where the coal is actually loaded in the tubs by the miners/loaders to the haulage point. The principles of fixing of wages of piece-rated trammers have been laid down in Central Wage Board Recommendation and in N.C.W.A.I, II and III. There was no negotiation between the trammers concerned and employers for fixing the work-load and by fixing work-load at higher stage, the management has reduced the wages of the concerned trammers. In the circumstances, the union has prayed that its demand be held to be justified.

5. The sponsoring union has examined only one witness, namely, W.W1 Ram Adhar Kewat, one of the concerned workmen and laid in evidence a number of documents which have been marked Exts. W-1 to W-3/2. On the other hand, the management had examined one witness, namely W.W.1 A.K. Singh, now posted as Asstt Divisional Manager in Sijua colliery and laid in evidence a sheaff of documents which have been marked Exts. M-1 to M-10.

6. The Government of India set up Central Wage Board for the Coal Mining Industry (hereinafter referred to as Wage Board) in terms of Resolution No. WB-16(1)/62 dated 10-8-1962. Central Wage Board submitted its recommendations to the Government of India who accepted the same by order dated 14-1-1965. The Government of India requested the concerned employer to implement the Central Wage Board Recommendations as early as possible. Admittedly, the management of collieries of M/S. TISCO was one of the employers and the management implemented the Central Wage Board Recommendations.

7. The Central Wage Board streamlined the wage pattern of all workmen employed in coal industry. But the Board made a separate provision for piece-rated trammers in its recommendations which runs as follows :

"49. As there is no fixed work-load for piece-rated trammers their piece-rates vary not only from colliery to colliery but also from section to section depending mainly upon distance gradient and turn-over of tubs. As we have given a 23 per cent increase to the miners and loaders we would provide the same rate of increase in their basic consolidated rate, inclusive of attendance bonus which should be worked out as follows —

"For a period of two months before the date on which our recommendations come into effect the total earnings of a gang of piece-rated trammers in a particular section shall be divided by the total number of tubs trammed in that period and this would be the new consolidated basic rate. The total earnings referred to above shall include Basic Wage plus Dearness Allowance plus Variable Dearness Allowance plus the two interim wage increases recommended by this Board and the attendance bonus. This basic consolidated rate thus arrived at will be increased by 23 per cent. To illustrate, if

the rate for tramming is 12 paise per tub and on an average each trammer in the gang has pushed 10 tubs per shift, his earnings will be calculated as follows :

	Rs.
Basic for 10 tubs at 12 paise per tub	...1.20
Dearness Allowance	...1.58
Variable Dearness Allowance (7 slabs of 19p each)	1.33
Two Interim Wage Increase	..0.56
Attendance Bonus	...0.40
	5.07

Therefore, the consolidated tub rate on this basis will be Re. 0.51 per tub (calculated to the nearest integer).

50. Under our recommendation this consolidated tub-rate of 51 paise per tub shall be increased by 23% i.e. by 12 paise to the nearest integer. Thus, the new consolidated rate inclusive of Bonus @ 10% will be Re. 0.63 paise per tub. In other words the new basic rate per tub exclusive of bonus would be 0.57 paise per tub. However, if under the clause of Bonus @ 10% will be Rs. 0.63 paise per tub, works out to less than Rs. 6.00 per day which we are recommending for his group (Group IV) the rate per tub should be further increased to enable him to earn this basic wage."

Admittedly, the Central Wage Board Recommendations held the field till National Coal Wage Agreement (hereinafter referred to as N.C.W.A. for brevity) came into force with effect from 1-1-75 and lasted till 31-12-78 and it was replaced by N.C.W. II which came into effect from 1-1-79 and lasted on 31-12-82. The relevant wage pattern of piece-rated trammers and wages for work beyond work-load for piece-rated workers as per N.C.W.A.I is as follows :

"5.7 TRAMMERS :

(i) The work load and the rate per tub for the piece-rated trammer should be fixed at the unit level by bi-partite negotiations in such a way that the normal earnings of trammers is at least at the mid-point of the scale of the time-rated trammers. The work-load and rates of trammers should be reviewed periodically as and when changes in conditions of work occur. Wherever time-rated tramming is prevailing, system of time-cum-piece rate for trammers may be introduced.

(ii) The piece-rated trammers will be given an increase in their consolidated emoluments consisting of basic, dearness allowance, interim wage increase and attendance bonus so as to give them a minimum benefit of Rs. 104.52 in the average earnings. The basic rate of the trammers should be so revised as to give them the above benefit or Rs. 104.52 per month on the average total emoluments inclusive of basic, fixed D.A., attendance bonus and V.D.A. for the six weeks period beginning 1st October. In evolving the piece-rate the average work load will be taken into consideration for the same period.

5.4 Wages for work beyond workload for piece-rated workers.

For work in excess of the prescribed workload a piece-rated worker shall be paid a pro-rata increase in the basic piece-rate as well as fixed dearness allowance.

5.5 Fall Back Wage :

Basic fall-back wage in respect of different piece-rated groups shall be as indicated in the foregoing paragraphs, in addition to the fixed Dearness Allowance and V.D.A.

There will be a daily review of earnings of piece-rated workers to ensure payment of fall back wages, which will be inclusive of lead and lift, but not tub pushing allowance. The fall-back wage is payable in case the piece-rated workers fail to fulfil the work norms on account of factors for which they are not responsible for example insufficient or non supply of tubs or breakdown of haulages or power shut down for short periods etc. No fall-back wage is, however, payable if the worker fails to fulfil the work norms due to his own faults.

The provision of N.C.W.A.II in this respect is as follows:

"Trammers :

5.7.1. The work load and the rate per tub for the piece-rated trammers should be fixed at the unit level by Bipartite negotiations in such a way that the normal earnings of trammers is at least at the mid point of the scale of time rated trammers. The workload and rates of trammers should be reviewed periodically as and when changes in conditions of work occur.

5.7.2. The piece-rated trammers will be given an increase in their consolidated emoluments consisting of basic, fixed dearness allowance, variable dearness allowance and attendance bonus so as to give them a minimum benefit of as 73.90 in the average earnings. The basic rate of the trammers should be so revised as to give them the above benefit of Rs. 73.90 per month on the average total emoluments inclusive of basic fixed DA, VDA, attendance bonus; computed fringe benefit its on attendance bonus. In evolving the piece-rate the average work load will be taken into consideration for six weeks from 1-10-1978.

5.5.1 Fall back wages:

Basic fall-back wage in respect of different piece-rated groups shall be as indicated in Annexure-II, in addition they will get the special dearness allowance, Fixed D.A. and variable dearness allowance.

5.5.2—There will be a daily review of earnings of piece-rated workers to ensure payment of fall back wages, which will be inclusive of lead and lift, but not tub pushing allowance. The fall-back wage is payable in case the piece-rated workers fails to fulfil the work norms on account of factors for which they are not responsible, for example, insufficient or non-supply of tubs or breakdown of haulages or power shut down etc. No fall back wage is, however, payable if the workers fails to fulfil the work norms due to his own faults."

8. The present industrial dispute centres round the demand of the sponsoring union for fixation of static work-load in respect of piece-rated trammers of Pit No. 2 of Sijua colliery against fall back wages. The sponsoring union, in its written statement has confined its claim to Pit No. 2 of Sijua colliery. The management has stated that Sijua colliery is being worked through Pit Nos. 2 and 15 at Sijua and Pit Nos. 1 and 2 at Bhatland and that work through Pit No. 2 is carried on different portions of Seam Nos. 11 and 12 and that earlier Seam Nos. 13 and 14 were being worked. Thus, it is obvious that presently Seam Nos. 11 and 12 are being worked and earlier Seam Nos. 13 and 14 were being worked through Pit No. 2 of the said colliery. This statement of facts has practically remained unassailed.

9. Anyway, upon perusal of Wage Board Recommendations and the provision for work-load and the rate per tub for the piece-rated trammers as envisaged in NCWA I & II there can be no scope to hold that the work-load of piece-rated trammers is static. The reason is obvious and that has been very deftly provided in Wage Board Recommendations in the following manner :

'As there is no fixed work-load for piece-rated trammers their piece-rates vary not only from colliery to colliery but also from section to section depending mainly upon distance gradient and turn-over of tubs.'

The management has also provided the reason for non-static work-load of piece-rated trammers in its written statement by stating that neither the Central Wage Board Recommendations nor the N.C.W.A.I, II & III have fixed any work-load for piece-rated trammers, the obvious reason being that the working conditions vary with the progress of work in a particular Seam of the colliery and also with the installation of haulage and different machineries and also the method of mining, i.e. development or depillaring as the case may be which result in considerable variation in work-load. But the sponsoring union has stubbornly stuck to the facts that tramming distance has remained the same over the years.

WW-1 Ram Adhar Kewat, one of the concerned workmen, has stated in his evidence that galleries in a colliery run leaving aside pillar and that three-four of the coal is left in

the pillar and that when extraction of coal from the gallery is complete the process of extraction of coal from the coal pillar causes subject to the permission of the Mines Department. He has further stated that the process of extraction of coal from pillar starts from deep position to the rise position and that the tramming distance does not become less when extraction is done from deep position to the rise position. But MW-1 A. K. Singh, who is now posted as Asstt. Divisional Manager in Sijua Colliery and holds Mines Manager's Certificate of competency, has stated that underground trammers are required to push tubs at the tramming level from the retreating face to the curb of the haulage. He has further stated that to approach a seam a pit is sunk and after sinking of the pit, the mains are driven and from the mains galleries are driven on the both flanks and this is the process of development of seams towards the rise. He has further stated that galleries are driven to form pillar of for final operation of depillaring. According to him nearly three-fourths of the coal reserve are left in the pillar and that after operation of development of galleries is over, depillaring operation is taken up after obtaining the permission from D.G.M.S. His emphatic view is that during depillaring the operations are carried on from deep to rise and that during the depillaring operation the tramming distance gradually reduces due to retreat. There is no dispute that Pit No. 2 of Sijua colliery is in a depillaring stage and according to Ram Adhar Kewat even in depillaring stage the tramming distance has not reduced while according to A. K. Singh it has gradually reduced due to retreat.

It is the admitted case that earlier the concerned workman filed I.C. Application No. 36/77 and 48/77 in the Central Govt. Labour Court No. 3 at Dhanbad claiming difference of wages for a certain period on the basis of static work-load on piece-rated trammers at the rate of 4 tubs per head per day. That claim was rejected by the Labour Court on the ground that the applicants had no existing right to claim the amount in question on the basis of work-load. The decision of the Labour Court has been confirmed by both the Hon'ble Patna High Court and Hon'ble Supreme Court. In those cases Ram Adhar Kewat examined himself on behalf of the workman. He was constrained to admit there that depillaring is done from the deep side and proceed towards rise and that as the depillaring will progress the tramming distance would decrease. Thus, there can be no escape from this fact that as the depillaring progresses the tramming distance decreases. This is also corroborated by the Plan of 13 and 14 Seams of Pit No. 2 of Sijua Colliery produced by the management (Exts. M-3, M-4 and M-6).

10. It follows therefore that when the tramming distance reduces in the course of depillaring operation the piece-rated trammers will be in a position to push more tubs than when the pit was in a development stage.

It has been asserted by the sponsoring union that immediately after the implementation of Central Wage Board Recommendations the work-load of piece-rated trammers remained static at the rate of 4 tubs per head per day. This has been disputed by the management. In the pleading of the management in I.C. Application No. 36/77 it has been denied that the work-load, obviously of piece-rated trammers, was fixed at 4 tubs per head per day at the time of implementation of Coal Wage Agreement (Ext. W-2). But Ram Adhar Kewat while deposing in that case, stated that prior to 1975 they used to get Rs. 6 for pushing 4 tubs. He has also deposed in this Tribunal that they used to get Rs. 6 per day as wages for pushing 4 tubs and this amount was their minimum guaranteed wages and that for additional pushing of tubs they used to get Rs. 1.50 per tub. There is no solid evidence to indicate that even after implementation of Wage Board Recommendations and even prior thereto piece-rated trammers had a static work-load of 4 tubs per head per day. Even assuming so, there is no evidence to indicate that this work-load was fixed when the pit was in a depillaring stage as it is now. It may be that it was in a development stage at that time and so this work load was in vogue at that time. This does not mean that the concerned workmen are entitled to get a static work-load over the years even when the pit was working in a depillaring stage. The Central Wage Board Recommendations and NCWA I & II do not envisage, as I have pointed out before static work-load for piece-rated trammers in underground mine.

11. But the condition of piece-rated trammers in underground mine has not remained useful or that they are at the mercy of the employers. Procedures have been laid down for fixation of their minimum wages and work-load in N.C.W.A. I & II. It has been provided in N.C.W.A. I that the work-load and rate per tub for the piece-rated trammers should be fixed at unit level by Bi-partite negotiation in such a way that the normal earning of trammers is atleast at the mid point of the scale of time-rated trammers and that the work-load and rates of trammers should be reviewed periodically as and when changes in condition of work occur. Similar provision has been made in N.C.W.A. II.

It is not the case of the concerned workmen that their normal earning has not been fixed by the management at the mid point of the scale of the time-rated trammers. Their grievance is that their work-load has been increased and consequently their rate of earning has decreased. N.C.W.A. I & II envisage Bi-partite negotiation so as to ensure normal earning of piece-rated trammers. The management has stated that the work-load of the trammers was fixed by negotiation. But there is no solid evidence on this point. Only one item of documents has been filed by the management to indicate that the discussion was held on 25-8-77 with the representatives of piece-rated trammers of Pit No. 2 and it was agreed that the rate of 17 persons would be 8 tubs at the rate of Rs. 2.76 per tub.

12. I have already held that there can be no fixed work-load for piece-rated trammers in view of Central Wage Board Recommendations and provisions in N.C.W.A. No. I & II and so the demand of the sponsoring union for fixation of static work-load for piece-rated trammers of Pit No. 2 of Sijua colliery against fall back wages is not justified. Even so, within the parameters of provisions of N.C.W.A. I & II the management has got an obligation to fix work-load and the rate of wages per tub for the piece-rated trammers by Bi-partite negotiation. Now, that N.C.W.A. III has expired and N.C.W.A IV has come into force. The management is directed to fix the work-load and the rate of wages of piece-rated trammers per tub of Pit No. 2 of Sijua colliery, preferably within two months from the date of publication of this award.

13. Accordingly, the following award is rendered the demand of Rashtriya Colliery Mazdoor Sangh, Sijua Branch, for fixing the static work-load of piece-rated trammers of Pit No. 2 against fall back wages is not justified. Even so, the management is directed to fix the work-load and the rate of wages per tub for the piece-rated trammers of the said Pit of the Sijua colliery immediately, preferably within two months from the date of publication of award, within the parameters of N.C.W.A. IV.

In the circumstances of the case, I award no cost.

Sd/-

S. K. MITRA, Presiding Officer

[No. L-20012(177)/84-D.III(A)/IR(Coal-I)]

नई दिल्ली, 19 मार्च, 1990

क्र.अ. 873.- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, भारत कोकन कोल लि. की भोग (गाउज) कॉन्ट्रिरी के प्रबन्धन से सम्बद्ध विषयों और उनके कर्मचारों के बीच, अनवरत में निरिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. 1), धनबाद के पंचपट को प्रकाशित करता है, जो केन्द्रीय सरकार को 5-3-1990 को प्राप्त हुआ था।

New Delhi, the 19th March, 1990

S.O. 873.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 1), Dhanbad as shown in the Annexure in the industrial dispute between the employers' in relation to the management of Bhowra (S) Colliery of M/s. Bharat Cooking Coal Ltd. and their workmen, which was received by the Central Government on the 5-3-1990.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947.

Reference No. 110 of 1988.

PARTIES :

Employers in relation to the management of Bhowra (S) Colliery of M/s. E.C.C.Ltd.

AND

Their Workmen.

PRESENT :

Shri S. K. Mitra,
Presiding Officer.

APPEARANCES :

For the Employers.—Shri B. Joshi, Advocate.

For the Workmen.—Shri D. Mukherjee, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dated, the 26th February, 1990

AWARD

By Order No. L-20012(111)88-D.III(A), dated, the 2nd August, 1988, the Central Government in the Ministry of Labour, has, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, referred the following dispute for adjudication to this Tribunal :—

“Whether the age recorded in Sl. No. 1167 of the Form B Register of Bhowra (S) Colliery in respect of Shri Piya Singh, Trammer as 1st January, 1928 is justified ? If not, to what relief the concerned workman is entitled ?”

2. The case of the management of Bhowra (S) Colliery of M/s. E.C.C.Ltd. as appearing from the written statement submitted, details apart, is as follows :

The present reference is not maintainable. The age of Piya Singh, the concerned workman was recorded in Form B Register as 1-1-1928. He put his L.T.I. thereon in token of his having accepted the correctness of all the entries including the date of his birth contained in Form B Register. The date of his birth in Identity Card and P. F. return was not there and in such circumstances, he was supplied declaration form for declaration of his age as on 1-1-90. He declared his age as 52 years on 1-1-90 and accordingly his date of birth was computed as 1-1-1928. He put his L.T.I. on declaration form filed on 8-5-80. A Medical Board was constituted to examine the workmen including the concerned workman and to certify the correctness of age declared by them. The concerned workman was examined by the Medical Board and the age declared by him was accepted by the Board. Thus, the age recorded in Form B Register, Identity Card Register, Declaration Form and Medical Report is the same, i.e., his date of birth being 1-1-1928. Hence, there is no scope for changing the age as recorded in the statutory records.

3. The case of the concerned workman as appearing from the written statement submitted on his behalf by the sponsoring union, Bihar Mines Laljhanda Mazdoor Union, briefly stated, is as follows :

The concerned workman was originally appointed as permanent Trammer at Bhowra (S) Colliery at the time of erstwhile owner and that at that time the year of his birth was recorded as 1937. But the management issued an Identity Card to him showing his year of birth as 1928. He represented before the management challenging the

illegal and arbitrary recording of date of his birth but without any effect. The management, however, agreed to refer him to Medical Board. He represented before the Medical Board, but till to-day the decision of the Board has not been made available to him. Seeing the anti-labour attitude of the management the sponsoring union raised an industrial dispute before the Asstt. Labour Commissioner (C), Dhanbad on 19-5-87 challenging the illegal and arbitrary recording of date of birth. In the conciliation proceeding the management represented that the age of the concerned workman was recorded as 1-1-1928 as per Medical Board report. But the alleged Medical Board report was never supplied to him nor was he aware of the alleged report. Unless and until the alleged medical board report is supplied to him it is not possible for him to scrutinise or to verify the process of determination of age by the Board. The Board had assessed his age in violation of medical jurisprudence and for that reason the management again agree to refer him to the Medical Board for determination of his age in accordance with medical jurisprudence. He submitted a report of the Medical Officer whereby his age was determined as 50 years as on 18-11-86. In spite of the aforesaid facts, the management refused to change his date of birth as a result of which the union was compelled to raise an industrial dispute before the Asstt. Labour Commissioner (C), Dhanbad. The conciliation proceeding ended in a failure. It is alleged that the action of the management in recording the date of birth of the concerned workman as 1-1-1928 on the basis of the alleged Medical Board report in Form B Register is invalid, improper and illegal. In the circumstances, the union has prayed that the management be directed to change the date of birth of the concerned workman as 1937.

4. In rejoinder to the written statement of the sponsoring union, the management has asserted that the concerned workman was examined by the Medical Board and the result of the examination was explained to him. It has been denied that the Medical Board assessed his age in contravention of the medical jurisprudence. The concerned workman declared his age and the same was verified and accepted by the Medical Board and hence there was no question of any dispute over the age.

5. In rejoinder to the written statement of the management, the sponsoring union has stated that at the time of appointment the age of the concerned workman was recorded as 1937 by the erstwhile employer. The union has reiterated that the report of the Medical Board was never supplied to the concerned workman.

6. The only question that falls for determination in this industrial dispute as to whether the date of birth of the concerned workman being 1-1-1928 as recorded in the Form B Register of Bhowra (S) Colliery is justified or not.

The firm case of the sponsoring union is that the year of birth of the concerned workman was recorded as 1937 at the time of appointment by the erstwhile employer. In other words, the sponsoring union has intended to mean that the year of birth of the concerned workman was recorded as 1937 in the register of the colliery while it was under the private management. But not a whit of paper has been produced in support of this assertion. On the other hand, it appears from the written statement of the sponsoring union that the year of birth of the concerned workman was shown as 1928 in the Identity Card. It is the case of the sponsoring union that the concerned workman represented before the management challenging the illegal and arbitrary recording of his year of birth but without any effect. The concerned workman has not examined himself on this point nor has any paper been produced to indicate that the concerned workman represented before the management assailing his year of birth as recorded in the Identity Card.

7. On the other hand, it is an admitted position that the concerned workman along with others was referred to Medical Board for determination of age and that the concerned workman submitted declaration declaring his age to be 58 years as on 1-1-90. It is the case of the management

that Medical Board accepted the age as submitted by the concerned workman after verification. Accordingly the date of birth of the concerned workman was computed as 1-1-1928. The sponsoring union has made a grievance over the determination of age as done by the Medical Board. In my view, there is little or no scope for such grievance as the concerned workman himself declared his age as 52 years as on 1-1-80.

The sponsoring union has stated that the concerned workman submitted a report of medical Officer before the management whereby his age was determined as 50 years on 18-11-86. But neither the concerned workman has examined himself on this point nor has the medical report been produced before me.

8. It appears that the date of birth of the concerned workman was recorded as 1-1-28 on the basis of Medical Board report. Although the entry in the Form B Register is not contemporaneous, the Identity Card issued to the concerned workman, as admitted by the sponsoring union, discloses that his year of birth was 1928. Thus, the entry in the Form B Register with regard to the date of birth of the concerned workman gets support from the declaration of the concerned workman and the Identity Card as well. That being so, the date of birth of the concerned workman being 1-1-1928 as recorded in Form B Register of the colliery is justified.

9. Hence, the following award is rendered the age recorded in Form B Register of Bhowra (S) Colliery in respect of the concerned workman, Piyare Singh, Trammer, as 1-1-1928 is justified.

In the circumstances of the case, I award no cost.

S. K. MITRA, Presiding Officer

[No. L-20612(III),/88/DIII(A)/IR(Coal-1)]

K. J. DYVA PRASAD, Desk Officer

नई दिल्ली, 1 मार्च, 1990

भा.अ. 874—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कानरा बैंक के प्रबंधन के संबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, बम्बई के पचाई की प्रकृति करता है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

New Delhi, the 1st March, 1990

S.O. 874.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Govt. hereby publishes the award of the Central Govt. Industrial Tribunal, No. 2, Bombay as shown in the Annexure in the Industrial dispute between the employers in relation to the Canara Bank and their workmen, which was received by the Central Govt.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, BOMBAY

PRESENT

Shri P. D. Apshankar,

Presiding Officer.

Reference No. CGIT-2/20 of 1986

PARTIES :

Employer in relation to the management of Canara Bank.

Their Workmen

APPEARANCES :

For the Employer.—Shri R. S. Pai, Advocate.

For the Workmen.—Shri V. T. Mirajkar, Advocate.

INDUSTRY : Banking. STATE : Maharashtra.

Bombay, dated the 12th January, 1990

AWARD PART I

The Central Government by their order No. L-12012/116/85-D.II(A) dated 26-5-1986 have referred the following industrial dispute to this Tribunal for adjudication under Section 10(1)(d) of the Industrial Disputes Act :—

“Whether the action of the management of Canara Bank in terminating the services of Shri J. B. Chavan, Peon, Thane (Main Branch), with effect from 18-5-1984 is justified? If not, to what relief is the workman concerned entitled?”

2. The case of the workman Shri J. B. Chavan as disclosed from his statement of claim (Ex. 2), in short, is thus :—

He was appointed as the Peon in the Thane Branch of the Canara Bank in December 1974. He was a permanent Peon in the service. He was a member of the Bank Employees' Union since the very beginning, and was an active member. The Bank management adopted a policy of divide and rule especially amongst class IV servants of the Bank, and the said workman was involved in an alleged incident. The alleged incident had taken place in the evening of 21-6-1983 at the evening time outside the Bank premises at Thane. In fact no such alleged incident had taken place. It was only an imagination of the then Branch Manager of the Thane Branch with a view to get rid of the said activist member of the Union, i.e. the said workman. He was thereafter served the charge-sheet dated 29-6-1983, and suspended from the service. The charges levelled against him were totally false. The enquiry that was conducted against him was only a farce. The proceedings of the enquiry were held in English and the workman was not explained those proceedings in his mother tongue, i.e., Marathi. Some other languages i.e. Kanad and Hindi were also used frequently as per the convenience of the Enquiry Officer and the management witnesses. He was not allowed to defend himself as per the rules of natural justice. During the enquiry proceedings the Enquiry Officer acted as a prosecutor. The findings of the Enquiry Officer are one sided, and perverse. Relying upon such findings, the services of the workman were terminated by the Bank management from 18-5-1984. Thereafter the workman raised an industrial dispute before the Regional Labour Commissioner. However, as the conciliation proceedings ended in failure, the Central Government made the reference as above. In fact the order of termination of the workman's service passed by the Bank management, is void ab initio, and inoperative. The Enquiry Officer had not explained the procedure of the enquiry to the workman. The workman therefore prayed that the said order of termination be set aside and the Bank management be directed to reinstate him in service with full back wages and continuity of service, and he be also awarded compensation for loss of employment and inconvenience.

3. The Manager (Staff Section) of the said Bank by his written Statement (Ex. 3) contested the claim of the workman, and in substance contended thus :—

The said workman was appointed as a Peon from 1974 to 18-5-1984. On 21-6-1983 he assaulted another co-workman, Shri R. B. Gujaral, at about 4.30 p.m. in the presence of the Thane Branch Manager, Shri I. J. Rao. The workman has assaulted the other workman Shri Gujaral with an umbrella, and also gave him threats in the presence of the Inspecting Officer of the Bank in the office of the Manager. The said workman caught hold of the neck of Shri Gujaral inside the Bank premises, and dragged him to the rear door of the Bank and pushed him out. The workman was therefore Chargesheeted for the said misconduct. Thereafter an enquiry was held against the workman. In that enquiry the workman had fully participated, and was defended by the defence representative. The Enquiry Officer held the workman guilty of the charges levelled against him. Though it would have been fit and proper in the circumstances of the case for the Bank to dismiss the workman, the Bank took a lenient view and simply discharged the workman from the service. The findings of the Enquiry Officer are based on the strong evidence on record, and are not perverse. Further, the workman did not avail of his right to prefer an appeal against the order of the Enquiry Officer, as per the Canara Bank Service Rules.

4. The Bank management denied any knowledge whether the said workman was an active member of the Bank Employees Union. The Bank also denied the allegation of the workman that the Bank management had adopted a policy of divide and rule especially amongst Class IV servants. The Bank further contended that the domestic enquiry was held in accordance with the rules of natural justice. The Enquiry proceedings were held in the language known to the workman, even though the proceedings were recorded in English. The workman was represented in the enquiry proceedings by the defence representative who knew English very well. Further, the Enquiry Officer had explained the entire proceedings to the workman. The workman had at no time objected to the manner in which the enquiry was being conducted. The Bank denied that the Enquiry Officer has acted as a prosecutor. The Bank contended that the enquiry held against the workman was just and proper, and the rules of natural justice were properly followed, and the order of discharge of the workman from service is quite just and proper. The Bank management therefore prayed for the dismissal of the claim of the workman.

5. The Issues framed at Ex. 4 are :—

1. Is it proved that the workman Shri J. B. Chavan, assaulted the co-worker Shri R. S. Gujaral, and misbehaved on the noon of 21-6-83, as alleged by the Bank in its written statement para 1?
2. Whether the domestic enquiry held against the said worker, was not fair and proper, and the Rules of natural justice were not properly followed?
3. Whether the worker did not file any appeal against the findings given by the Enquiry Officer under the service Rules? If so, what is its effect on the termination of the worker's service?
4. Whether the action of the management of the Bank in terminating the services of the said worker with effect from 18-5-1984 is just and proper?
5. If not, to what relief the workman is entitled?
6. What Award?
6. Issue No. 2 has been tried as a preliminary Issue.

7. I find that the domestic enquiry held against the workman was fair and proper, and the rules of natural justice were properly followed, as can be seen from the following discussion.

REASONS

8. The workman Shri J. B. Chavan file his affidavit in support of his case at Ex. 5. He was cross-examined on behalf of the Bank management. The Bank management filed the affidavit (Ex. 7) of the Enquiry Officer, Shri D. V. Shukla in support of its contention. He was cross-examined on behalf of the workman. It is an admitted fact that no representative as such was appointed by the Bank management in the said enquiry proceedings. However, the workman Shri Chavan stated and admitted in his cross-examination thus :—

He was a member of All India Bank Employees Association, while the other workman Shri Gajare was a member of the Canara Bank Workers' Union. He, i.e., the workman in question Shri Chavan, had received the chargesheet issued against him by the Bank. He did not however reply to it. He was told by the Union that they would reply whenever the enquiry would start, and hence he did not reply to the chargesheet. One Shri Dalal, a person from the Canara Bank Employees Union, had representative, put their signatures thereon. The contents of the enquiry proceedings were read out to him, and thereafter he, and the defence representative, put their signatures thereon. The defence representative was knowing English. Neither he himself nor the defence representative objected to the proceedings being held in English. The defence representative had told him that he would explain the matter to him. The witnesses for the Bank management were cross-examined by the defence representative Shri Dalal. His statement i.e. the statement of the workman was recorded in the enquiry proceedings. He did not file any application to the Bank that his statement was not recorded correctly. One more person, namely, Shri Patvardhan was examined as a witness on his behalf. He, i.e. the workman was supplied with the copies of all the documents produced by the Bank in the enquiry proceedings. He had full faith in his defence representative Shri Dalal. He had not told the Union that some other representative be engaged on his behalf in the enquiry proceedings. Even though, according to him, the said enquiry Officer was fully biased in favour of the Bank, he did not tell the Bank orally or in writing to change the Enquiry Officer. He or his defence representative Shri Dalal had not told the Bank that they had any grievance or complaint against the enquiry officer. They had put their say before the Enquiry Officer.

9. The Enquiry Officer Shri D. V. Shukla stated in his affidavit (Ex. 7) that he properly conducted the enquiry proceedings as per the rules of natural justice. He was cross-examined on behalf of the workman. However, absolutely nothing transpired in his cross-examination which would substantiate the workman's case. It is thus quite clear from whole of the cross-examination of the workman Shri Chavan that the enquiry proceedings held against him were held properly and as per the rules of the natural justice, and he was given a proper opportunity to defend himself in the enquiry proceedings.

10. The next points urged on behalf of the workman are thus :—

It was urged that the Enquiry Officer was acting also as a Prosecutor on behalf of the management. It is an admitted fact that the Bank had not appointed any Presenting Officer as such on its behalf. It is seen from the enquiry proceedings that the Enquiry Officer himself asked certain questions to the workman. However, I find from the evidence on record that during the enquiry proceedings the Enquiry Officer was not acting as a Prosecutor, but that he was simply asking some questions to the witnesses to get the points clarified and that he was not cross-examining the witnesses as such when any particular witness was deposing on behalf of the Bank management. Therefore,

merely cause no Presenting Officer was appointed on behalf of the management, and only because the Enquiry Officer himself put some questions to the witnesses, the whole enquiry cannot be treated as vitiated thereby.

11. The other point urged on behalf of the workman is that no opportunity was given to him to put in his say after the chargesheet was issued to him. It will be seen from the Enquiry Proceedings that after the chargesheet was issued, it was mentioned therein that the workman may put in his say within three days. Therefore, an opportunity was certainly given to the workman to put in his say after the chargesheet was issued to him. Further, while the chargesheet was issued on 29-6-1983, the enquiry proceedings started on 19-9-1983 i.e. about three months thereafter. The workman could have put in his say to the chargesheet during the said period, or even thereafter. However, the workman himself failed to put in his say to the chargesheet. As such, the enquiry proceedings do not suffer from any infirmity.

In the result, I find that the domestic enquiry held against the said workman, was held fairly and properly and the rules of natural justice were duly followed. Issue No. 2 is found accordingly.

Sd/-

P. D. APSHANKAR, Presiding Officer

[No. L-12012/116/85-D.II(A)]

का.आ. 875:—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार न्यू बैंक ऑफ इंडिया के प्रबंधन के संघर्ष नियोजकों और उनके कर्मचारियों के बीच, अन्तर्गत में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधि-कारण कानपुर के पंचसद को प्रकटित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

S.O. 875.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the industrial dispute between the employers in relation to the New Bank of India and their workmen, which was received by the Central Government.

ANNEXURE

BEFORE SHRI ARJAN DEV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 49 of 1987

In the matter of dispute between :

Shri Bharat Sharma C/o Shri V. K. Gupta 2/363 Nam-
nair Agra.

AND

The Regional Manager New Bank of India Agra.

AWARD

1. The Central Government, Ministry of Labour, vide its Notification No. L-12012/69/86-D.IV (A) dated 1-5-87, has referred the following dispute for adjudication to this Tribunal :—

Whether the action of the management of New Bank of India in terminating the services of Shri Bharat Sharma Driver, w.e.f. 1-12-85 is legal and justified? If not, to what relief the workman concerned is entitled?

2. The case of Shri Bharat Sharma (hereinafter referred to as Shri Sharma) is that on the opening of Area Office of New Bank of India at Agra, he was appointed as Driver of Bank's car on a salary of Rs. 500 per month with annual increment of Rs. 100 against a regular and permanent vacancy.

In July 1985 he was transferred from Agra to Gwalior. However, his services were terminated after about 4 years of service w.e.f. 1-12-85 without notice or notice pay and retrenchment compensation against the provisions of law. He alleges that during the period of his service he was not paid wages in accordance with the terms of various bipartite settlements. He has, therefore, prayed that after holding his termination of service as illegal, he be reinstated with full back wages and continuity of service.

3. The case set up by the management in defence is that the bank never employed nor appointed Shri Sharma as a driver of the bank's car as alleged by him. There had never been the relationship of master and servant between the management bank and Shri Sharma. He was never paid any salary by the bank. Even he was never transferred from Agra to Gwalior as alleged by him. There had never been the relationship of master and servant between the management bank and Shri Sharma. He was never paid any salary by the bank. Even he was never transferred from Agra to Gwalior as alleged by him. The fact is that the bank allow its Executives to engage their own personal drivers and such executives are reimbursed by way of allowance for the drivers so engaged by them. These drivers exclusively remain under the personal control and supervision of these executives, who pay the salaries of these drivers themselves. It could be that Shri T. M. Harsorara, who was working as Dy. R. M. of the Bank at Agra and who was subsequently transferred to Agra, might have engaged the services of Shri Sharma as a driver at Agra or at Gwalior. Shri Sharma being not in the employment of the bank, the question of giving of notice or notice pay and retrenchment compensation did not arise at all. There has been no unfair labour practice on the part of the bank in this regard. In any event a driver cannot remain unemployed and, therefore, Shri Sharma must have been gainfully engaged after 1-12-85. Consequently, he is not entitled to his reinstatement with full back wages.

4. In his rejoinder, Shri Sharma alleges that the car provided to the Area Office at Agra, on which he was employed as Driver was exclusively used by the Area Manager as well as the other staff for official purposes. The Area Manager, could use the car for his personal use also for which he had to pay charges. He used to be paid salary from the Area Office at Agra against his signatures on the pay slips. It is a fact that his services were transferred to Gwalior as the same car was sent to Gwalior office of the bank. It is wrong to say that the management of the bank has no control over him. The car was under the supervision and control of the Area Office and its maintenance was also done by the Area Office. No other new fact has been alleged by Shri Sharma, in his rejoinder.

5. In support of his case, Shri Sharma, has filed his own affidavit and in support of their case, the management have filed the affidavit of Shri S. K. Shah, an officer of the bank holding the post of Accountant and some circulars issued by the bank from time to time.

6. From the cross examination of Shri Sharma, the following facts come out :—

1. That he had made no application to the Bank for his appointment as Driver ;
2. That he was never issued any appointment letter by the bank ;
3. That bank never issued any order regarding sanction of leave to him. Whenever he needed leave Shri P. D. Sharma on whose car he was employed as a driver, on his oral requests, granted him leave ;
4. That he never marked his attendance in the bank nor his attendance was never marked in the bank ;
5. That he bank never issued any order regarding his transfer from Agra to Gwalior ; and
6. That Shri Sharma performed his duties as driver in accordance with the directions given to him by Shri P. D. Sharma and his family.

It further appears that Shri P. D. Sharma, Area Manager, who has since retired engaged him as a Driver on the car of the bank which he had brought from Delhi to Agra

under the instructions of the Branch Manager of the bank at Agra. He used to receive wages from the cashier of the bank on the basis of the vouchers prepared by Shri P. D. Sharma. After his retirement, he was engaged on the bank's car by Shri T. M. Harsorara. He worked under Harsorara in the same way in which he worked under Shri P. D. Sharma.

7. Ext. M-1 to M-5 are the various circulars issued by the bank from time to time. Ext. M-1, is the copy of circular No. SF16/84 dated 21-2-84 on the subject of Reimbursement of Conveyance Expenses to Officers of the Bank. It appears from the circular that officers in scales III to VII were entitled to bank's car with certain litres of petrol per month as given in the circular. Officers of the bank in the scale of pay below scale III were not entitled to bank's car but they were allowed certain amount of petrol by the bank for use in their cars.

8. Ext. M-2, is the copy of circular No. STF/RO/24/82 on the subject of Reimbursement of Personal Drivers' salary. The circular says that Executives of the bank posted at Bombay and Delhi, Calcutta and Madras were allowed reimbursement at the rate of Rs. 600 per month towards the salary of the personal drivers and Executives of the bank posted at other places were entitled to reimbursement at the rate of Rs. 500 per month towards salary for such drivers.

9. Ext. M-3, is the copy of circular No. STF/102/83 dated 16-12-83. By means of this circular, the amount of reimbursement of personal drivers salary was enhanced, at Bombay to Rs. 800 per month, at Delhi, Calcutta and Madras to Rs. 700 per month and at other places to Rs. 600 per month.

10. Ext. M-4 is the another circular No. Pers/Misc./6185 dated 24-5-85. By means of this circular the reimbursement of personal drivers salary was further revised w.e.f. 1st May, 1985.

11. In his cross examination the management witness has admitted that the Executives of the bank entitled to bank's car could use the bank's car even for their personal use, but in that event they are to pay certain charges. This fact is also found stated in the copy of circular dated 21-2-84, Ext. M-1. It lays down that all officers who are provided with banks cars are required to pay Rs. 100 per month for private use of car for personal work upto a maximum distance of 500 km. per month. For use of cars for personal purpose beyond 500 kilo metres per month they have to pay charges at the rate of 60 paise per K.M.

12. The question is whether in the light of the facts and circumstances stated above, under law, Shri Sharma would be deemed to be an employed of the bank or not.

13. This question came up for consideration in the matter of dispute between the Employers in relation to Punjab National Bank and Gulam Dastgir 1978 (36 FIR) 198. The facts of the case were almost similar to the facts of the present case. At page 200 the Hon'ble Supreme Court observed :—

On the other hand, the evidence adduced before the Tribunal, oral and documentary, lead only to one conclusion that the Bank made available a certain allowance to facilitate the Area Manager, Shri Sharma privately to engage a driver. Of course the jeep which he was to drive, its petrol and oil requirements and maintenance all fell within the financial responsibility of the Bank. So far as the driver was concerned, his salary was paid by Shri Sharma as his employer who draw the same granted to him by way of allowance from the Bank. There is nothing on record to make out a nexus between the bank and the driver. There is nothing on record to indicate that the control and direction of the driver vested in the Bank. After all, the evidence is clearly to the contrary. In the absence of material to make out that the driver was employed by the Bank, was under its direction and control, was paid his salary by the bank and otherwise was included in the army of employees in the establishment of the bank, we cannot assume the crucial

point which remains to be proved. We must remember that there is no case of camouflage or circumvention of any statute. It is not unusual for public sector industry or a nationalised banking institution to give allowance to its high-level officers leaving it to them to engage the services of drivers or others for fulfilling the needs for which the allowance are meant. In this view, we are clear that the award fails as it is unsupportable. We, therefore, reverse the award.

I may state here that the Industrial Tribunal which examined the matter at length had come to the conclusion that the driver was employed by the bank. Consequently the Industrial Tribunal had issued a direction for his reinstatement with back wages. In view of this ruling Shri Sharma cannot be held as an employee of the bank. There being no relationship of master and servant between him and the bank, he cannot be held entitled to any relief. The reference will have to be answered against him.

15. Before parting with the reference I would like to refer to an important observations made by Hon'ble Supreme Court in that very case. These are :

We are impressed with Shri Khera's appeal to us that the system of allowance in a country where there is unemployment may lead to individual in justice with an exploitative edge. It is likely that if the bank had to employ drivers for their vehicles, the terms and conditions would have been much higher but in the private sector individual driver, may be hired on lower pay. This is not desirable tendency for a public sector undertaking like a nationalised bank. We hope that the possibility of abuse of the system of driver's allowances and the obligation of the public sector undertakings to be model employers will lead to change in the approach of our nationalised banks and other public sector undertakings towards this issue of employing persons on a private basis by senior officers and the management itself giving some small sum by way of allowance in lieu of procuring such services. A fair and straight forward method would be for the Bank or like institution to engage its own driving staff.

Drivers were considered as one of the categories of sub staff as back as in Shastri Award. The judgment in the above case was given by Hon'ble Supreme Court on January, 11, 1978. Although more than a decade has passed when the above observations were made by the Hon'ble Supreme Court, the management of the New Bank of India have taken no steps to give effect to the wishes of the Highest court of law in the country. There is bound to be exploitation of a drivers privately engaged by Executives of a Bank. The Executives could take more work than the normal working hours without paying the driver any extra emoluments in the form of over time. Such a driver cannot even ask for leave bonus, etc. as is available to a regular employed driver of the bank. I am sure that the bank would look into it and start keeping regular drivers in its service. At the instance of the authorised representative for Shri Sharma, copy of settlement dated 6-6-87 arrived at between the management and All India New Bank of India Employees Federation was got filed. But from the terms of the settlement, it appears that Shri Sharma, cannot take any benefit under it. Drivers engaged by the Executives of the bank had been working in the personal employment of the Executives as on 18-3-87 were entitled to be absorbed as regular employees in the subordinate cadre of the bank. As per facts stated by Shri Sharma, himself in the statement of claim his services were terminated w.e.f. 1-12-1985.

16. Held, therefore, that Shri Sharma, was not in the employment of New Bank of India. Being not in the service of the bank, the question of termination of his services by the bank management w.e.f. 1-12-1985, does not arise. Accordingly he is entitled to no relief.

17. Reference is answered accordingly.

ARJAN DEV, Presiding Officer

[No. L-12012/69/86-D.IV (A)]

नई दिल्ली, 23 मार्च, 1990

बि.जी. 876—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के तबद्ध निर्गोशियों और उनके कर्मचारों बीच, अनबंद में निर्यात औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिनियम कानपुर के पंचाट का प्रकाशन करती है, जो केन्द्रीय सरकार को 9-3-90 को प्राप्त हुआ था।

New Delhi, the 23rd March, 1990

S.O. 876.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the industrial dispute between the employers in relation to the Punjab National Bank and their workmen, which was received by the Central Government on the 9-3-1990.

ANNEXURE

BEFORE SHRI ARJAN DEV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL—
CUM-LABOUR COURT, KANPUR

Industrial Dispute No. 43 of 1987

In the matter of dispute between :

Shri Satish Chandra Mehrotra C/o Shri O. P. Nigam
Labour Adviser and State Vice President U.P. Bank
Employees Congress 295/387 Din Dayal Road
Ashrafabad Lucknow.

AND

The Regional Manager, Punjab National Bank, 10 Ashok
Marg, Lucknow.

AWARD

1. The Central Government, Ministry of Labour, vide its Notification No. L-12012/89/85-D.IV (A), dated 16th April, 1987, has referred the following dispute for adjudication to this Tribunal :

Whether the action of the management of Punjab National Bank Lucknow in terminating the services of Shri Satish Chandra Mehrotra Mini Deposit Collector, w.e.f. 13-11-1983 is justified? If not, to what relief is the workman concerned entitled?

2. The admitted facts are that Punjab National Bank introduced a scheme known as Mini Deposit Scheme aimed at bringing persons of low income group into the banking fold by collecting their/or their childrens small savings from their door steps. For implementation of the said scheme the bank engaged Mini Deposit Collectors. Under the said scheme an offer was made by the Manager Mahanagar Branch Lucknow to Shri Satish Chandra Mehrotra, (hereinafter referred to as Shri Mehrotra), by means of letter dated 7-2-81, copy Ext. W-1, and the said offer was accepted by the said Shri Mehrotra by means of letter dated 7-2-1981 copy Ext. W-2 in which it was stated by him that he had deposited a sum of Rs. 1000 as security. Although in the letter of the Manager it was written that Shri Mehrotra would have to execute an agreement. It appears, that no such agreement was executed. Shri Mehrotra worked as Mini Deposit Collector till 12-11-1983.

3. Shri Mehrotra alleges that he was verbally appointed as Mini Deposit Collector in the said branch at Lucknow, on 24-11-1980. However a formal letter of appointment was issued to him by the Branch Manager, Mahanagar, Lucknow on 7-2-1981. According to him he used to do Mini Deposit Collection work before and after office hours and during office hours he used to do clerical work in connection with Mini Deposits in the Bank under the supervision and control of the Branch Manager. In 1983, he Manager, of the

of the said branch got annoyed with him as he stopped doing other clerical duties due to non co-operation and misbehaviour of the manager and two Assistant Branch Managers. After 30-7-83, no Mini Deposit Receipt Book was issued to him. Rather in the issue dated 23-9-83 and 25-9-83 respectively of the four News Papers notice was got published for information of the persons having accounts under Mini Deposit Scheme that they should not hand over any deposit to him. By means of another notice published in the issue dated 12-11-1983, of the news paper public was informed that he had ceased to be the Mini Deposit Collector of the Bank. This was done when he had been doing his duties as Mini Deposit Collector and performing clerical duties to the entire satisfaction of the bank authorities. He was not given any notice or any salary in lieu of notice nor paid any compensation under the provisions of I. D. Act etc. He was also not paid proper commission @ 3% which was to be paid to him in terms of the letter of offer dated 7-2-1981. Thus his agency was terminated in an arbitrary manner in violation of the provisions of section 25-F I. D. Act, Articles 14, 16 and 19 of the Constitution of India and Section 10 of the Banking Regulations Act, 1968. He claims himself to be a workman within the meaning of Section 2(s) I. D. Act. He has, therefore, prayed that he should be reinstated in the bank service as a regular employee of the bank in clerical cadre with full back wages as are paid to the members of staff by the bank in terms of various Awards and Bipartite Settlements.

4. The case is contested by the management. The management plea that being a Mini Deposit Collector Shri Mehrotra was never an employee of the bank much less a workman under Section 2(s) I. D. Act. He was a Commission Agent who drew commission on the amount canvassed and procured by him. The relationship between the management and him was one of Principal and Agent. In fact Shri Mehrotra did not perform his duties as Mini Deposit Collector Satisfactorily. Numerous complaints were received against him by the Bank. Consequently the bank was left with no option but to terminate the agency. The management deny any violation of the provisions of Section 25-F I. D. Act, Articles 14, 16 and 19 of the Constitution and Section 10 of the Banking Regulation Act, 1968. The management deny that he was doing any clerical work more than what was necessary for achieving the purpose of collection of his daily deposits and remitting the same to the bank. Duties of Mini Deposit Collector are not akin to that of a regular clerical employee of the bank as there is no element of supervision and control on the work relating to him. They are never subject to any disciplinary action or Rules and Regulations of the Bank nor their service conditions are governed in terms of the various bipartite settlements.

5. In his rejoinder Shri Mehrotra alleges that there is no substance in the plea raised by the management that there was relationship of employer and employee between him and the management. He further alleges that he had not voluntarily accepted the agreement as he did not sign the agreement and as such the agreement was illegal under Section 16 and 23 of the Contract Act. No other new plea has been raised by him in the rejoinder.

6. In support of his case, Shri Mehrotra filed his own affidavit on 25-6-88. On his said affidavit he was cross examined by the management on 18-7-88. The second time he examined himself on 9-2-89 in order to prove that in some of the books of the bank relating to Mini Deposit Scheme entries were made by him. On the other hand the management filed the affidavits of Shri N. K. Sharma, dated 18-8-88. He was cross-examined from the side of Shri Mehrotra on 31-10-88. After re-examination of Shri Mehrotra, the management filed the affidavit of Shri N. K. Tandon, Manager Mahanagar Branch of the Bank, w.e.f. 13-5-88. He was cross examined from the side of Shri Mehrotra on 18-8-88. He was cross examined from the side of Shri Mehrotra. I may state here that on 31-10-88 it was noted before the Tribunal by the parties that documents filed by the parties be read in evidence without formal proof.

7. The two main points which arise in this case for determination are :

- (1) Whether Mini Deposit Collector is a workman under Section 2(s) I. D. Act ?

837 GI/90-6.

- (2) Whether Shri Mehrotra had done clerical work as was being done by regular clerical staff under the orders of competent authority. If so, its effect ?

8. Point No. 1

As stated by me earlier no formal agreement was executed by Shri Mehrotra. Ext. W-1, is the copy of letter dated 7-2-81, from the Manager Mahanagar Branch of the Bank to Shri Mehrotra. The offer of appointment was based on certain conditions chief among which are—

- (1) That he would deposit with the bank a cash security of Rs. 1000 ;
- (2) That he would visit the residence or place of Mini Deposit Accounts Holders for discharge of his duties ;
- (3) that he would deposit with the bank all collections made by him on any day from the Mini Deposit Account Holders by the next following working day ?
- (4) that he would be paid a commission of 3% on the deposits collected by him, and
- (5) that in case he was to leave to work, he could do so by giving 3 month's notice in writing to the bank.

Ext. W-2, is the copy of letter dated 7-2-81 of Shri Mehrotra to the said branch manager accepting the offer. Acceptance of the terms and conditions contained in the letter of offer in the eye of law would be deemed to be the terms and conditions of agreement between the parties.

9. In his cross examination Shri Mehrotra, has admitted that he never marked attendance in the attendance register. He has also admitted that he was never paid salary by the bank as was being paid to regular/temporary employees of the bank. He has further admitted that he was not getting casual leave privileges leave medical leave benefits as were available to the regular employees of the Bank. Then a letter later on he has deposed that he used to do Mini Deposit work before and after office hours. This fact has even been stated by him in para 9 of the Claim statement. He admits that he used to get commission for the work so done by him.

10. This point came up for consideration before this Tribunal in I. D. Case No. 19/86 in the matter of dispute between The General Secretary, All India Hindustan Commercial Bank Employees Congress, Kannur and the Asst. General Manager, Hindustan Commercial Bank Limited, Birhana Road, Kannur and in Industrial Dispute No. 116/87 in the matter of dispute between Shri C. P. Tewari and the Regional Manager, Central Bank of India, Lucknow and after consideration in the light of various awards given by the various Central Government Industrial Tribunals including those of my predecessor and the various Rulings cited at the bar, it was held by me that a Mini Deposit Collector is not a workman within the meaning of Section 2(s) I. D. Act.

11. The management have filed the copy of order dated 23-8-89 of Hon'ble Mr. Justice Brijesh Kumar of Lucknow Bench of the High Court of Judicature at Allahabad in writ petition No. 7755 of 1989 Chandra Bhan Tewari Vs. Director, Officer, Industrial Tribunal, Central Government Pseudo Nager, Kannur and others with the written arguments. It appears that the writ petition filed by Shri. Tewari, against the award given by this Tribunal in I. D. No. 116/87 (supra) was completely dismissed. I may state here that the award in I. D. No. 19/86 was given on 29-7-88 and the award in I. D. No. 116/87 was given on 30-8-88.

12. In the present case written arguments have also been filed from the side of Shri Mehrotra. At page 18 of the written arguments are cited 7 rulings and reference has been made to an award said to have been given on 22-12-88 by the Director, Officer, Central Government Industrial Tribunal, Lucknow. Copies of the ruling and extract from the award of C.G.I.T. Lucknow have also been annexed to the written argument. The rulings are—

- (1) Allahabad, Officer, Vs. Their Workmen 1962 II L.J. 356 (SC)

- (2) Silver Jubilee Tailoring House and others Vs. Chief Inspectors of Shops and Estt. and another 1973 II LLJ 495 (SC)
- (3) M/s Raja Ram Rokde and Bros. Vs. Shriram Chintaman Warkar and other 1977 Lab. IC 1594
- (4) Shining Tailors Vs. Industrial Tribunal II U.P. 1983 LLJ 413 (SC)
- (5) Basti Sugar Mills Ltd. Vs. Ram Ujagar and others 1963 II LLJ 436 (SC)
- (6) M/s. Kale Khan Mohd. Hanif Vs. Jhansi Bidi Mazdoor Union and other 1980 II LLJ 282 (All)
- (7) Canara Bank Vs. Appellate Authority and others 1978 I LLJ 324.

Out of these six have been considered by me in the above two industrial dispute cases. Case cited at Serial Numbers 2, 4 and have been considered by me in I.D. No. 19/87 and cases cited at Serial Nos. 1, 5 and 6 were considered in I. D. No. 116/87. The third ruling 1977 Lab. IC 1594 of the Hon'ble High Court of Bombay is distinguishable on facts. It was a case of a carpenters and polishmen working in a factory. At page 1597 are given facts which were found as established from the evidence. It was on the basis of those facts that they were held to be workmen within the meaning of Section 2(s) ID Act. There were standing orders governing their service conditions. They were to do the work in the factory during working hours, and if they were late for more than 10 minutes they were not admitted into the factory. In case of absence they were required to ask for leave. They were supplied with attendance cum wage cards, they were given the benefit of P.F. and were entitled to casual leave, festival holidays and weekly offs as per Factories Act. There was an award under which the proprietor was to supply sufficient work to them. The proprietor also exercise control and supervision over their work which as earlier said was carried on by the factory. If the work done by them was found as not upto the required standard, the frames prepared by them were liable to be rejected. Hence the facts of the case being quite different cannot be held as applicable to the facts of the present case. Besides in view of the order dated 23-8-89, passed by Hon'ble Mr. Justice Brijesh Kumar in Writ Petition No. 7755 of 1989, copy of which has been filed by the A.R. for the workman with the written arguments against the award given in I. D. Case No. 116/87, this Tribunal is bound to follow the law laid down by the Hon'ble High Court of Allahabad.

13. Great reliance has been placed from the side of Shri Mehrotra, on the award dated 22-12-88 passed by CGIT Hyderabad copy of extract of which has been filed with the written arguments. P.O. CGIT Hyderabad has held that deposit collectors are employees of the Bank and there is relationship of master and servant and employer and employee. According to him they are part time employees and not full time employees. On the basis of these findings he has chalked out a scheme in respect of Deposit collectors who are upto 45 years of age and who are above 45 years of age. In respect of former category, he has made the direction that a trade test for their absorption in the clerical cadre he held, of course, if they possess qualifications between 8th and 10th class they should be absorbed in the sub staff by holding a qualifying examination. In respect of the second category of deposit collectors he is of the view that they should be paid a full back wage of Rs. 750 per month linked with minimum deposit of Rs. 7500 per month and they should be paid incentive remuneration at 2 per cent for collection over and above Rs. 7500 per month for deposit of more than 10,000 and upto or above Rs. 30,000 per month. He also appears to be of the view that they should be paid gratuity.

14. With utmost respect to the views of my learned brother I am unable to agree with his findings and directions which he gave on the basis of those findings. I have given my own reasons in detail in I. D. Nos. 116/87 and 19/86 for arriving at the conclusion that Mini Deposit Collectors are not workmen within the meaning of Section 2(s) I. D. Act and I see no good and sufficient reasons to differ with my said conclusion. Hence point No. 1 is decided against Shri Mehrotra.

15. Point No. 2 :

On 1-11-1988, Shri O. P. Nigam, the then Auth. Representative for Shri Mehrotra, on behalf of Shri Mehrotra moved an application for summoning of certain documents relating to Mini deposits from the bank. As earlier stated that Shri Mehrotra examined himself over again on 9-2-89. From his statement it appears that he deposed about entries in respect of Mini Deposit Accounts Ledgers, Mini Deposit Accounts Books which the management was also to produce on that day. Shri Mehrotra deposed that entries in respect of Mini Depositors are in his hand writing. He also deposed that he had also made entries in the Mini Deposit Account Opening and Closing Register. There was no cross examination of Shri Mehrotra on the facts deposed to by him from the side of the management. In this connection I may also state here, that with regard to Mini Deposit Accounts Books Shri Mehrotra also deposed that at some places, the headings, addresses, account numbers, date of opening of accounts were in the hand writing of some other Mini Deposit Collectors. It thus appears to me that he had been making entries in respect of such Mini Deposit Account Holders with whom he was concerned.

16. To show that all the entries were not made by Shri Mehrotra under the orders of any competent authority, the management examined Shri N. K. Tondon, who with his affidavit filed copies of various office order. Showing as to whom amongst the clerical staff the job of making entries in books connected with Mini Deposits was assigned. From the affidavit of Shri Tondon, it appears that he came to be posted as Manager Mahanagar Branch Lucknow on 13-5-88.

17. Annexures II, III, I and IV to his affidavit are copies of office orders dated 10-9-80, 6-5-81, 20-9-82 and 27-11-82 respectively. Annexure II shows that this job was entrusted to Shri K. K. Malviya; Annexure III shows that the job was entrusted to Miss Kiran Pal, Ann. I shows that this job was entrusted to Shri A. K. Srivastava and Ann. IV shows that this job was entrusted to Shri Ranjan.

18. The other management witness is Shri N. K. Sharma. He came to be posted in the said branch some time in October, 1982. He has specifically deposed that he never gave any authority to Shri Mehrotra, to do any clerical job of the bank.

19. As against the above evidence Shri Mehrotra in his first statement in his cross examination has deposed that without his consent extra work had been taken from him in the absence of any orders in this regard.

20. Thus from the above evidence it stands proved that there had been no written order from the branch manager who remained posted in Mahanagar Branch during the period of the Agency of Shri Mehrotra for doing of clerical job which otherwise should have been performed by a regular member of the clerical staff. The question is what should be the effect if in the circumstances Shri Mehrotra made entries in books relating to Mini Deposits. This was considered by me even in I. D. Case Nos. 19/86 and 116/87.

21. In para 17 of my award given in I. D. Case No. 19/86 I observed as follows :

The fifth and 6th awards are of my learned predecessor Shri R. B. Srivastava, one in I. D. case No. 215/84 and the other in I.D. No. 33 of 1984. In the second case, the case of a deposit collector was considered. In para 24 of the award it was held by my learned predecessor that taking over all picture of the work performed by the applicant, simply because he made certain entries in the bank ledger would not make him the whole time bank employee but he would remain an agent and his services were rightly terminated under the terms of the management.

In para 14 of the award given by me in I.D. Case No. 116/87 I observed as follows :

Much reliance has been placed on the joint inspection report from which it appears that on a few occasions in respect of some of the depositors he had made entries in the office ledger. There is no documents to show that the Bank Manager ever asked the applicant to do such a job in writing

He might have done it of his own accord or at the instance of an employee of the Bank. That will not make him the employee of the bank. In the Awards given by my learned predecessor or referred in I. D. Case No. 19 of 1986, he too observed that simply because of a deposit collector had made certain entries in the Bank Ledger would not make him an employee of the Bank. His Character as collecting agent would remain as it is.

22. In view of the management evidence, Shri Mehrotra, could have done the above job only either on the request or with the connivance of clerical staff who was entrusted with the job under the various office orders in the fond hope of gaining some advantage. This would not make him an employee of the bank. Moreover, even if it be taken that he had done those job under verbal orders of the Branch Managers, that cannot not enhance his position in any way and make him an employee of the bank. The Branch Manager is not competent to appoint the clerical staff. Had it been so it would give an impetus to back door recruitment.

23. Hence, point No. 2 is decided against Shri Mehrotra.

24. In view of the findings recorded above, the action of the management of Punjab National Bank Lucknow in terminating the agency of Shri Satish Chandra Mehrotra, Mini Deposit Collector w.e.f. 13-11-1983, cannot be held as unjustified. Consequently, Shri Mehrotra is held entitled to no relief.

25. Reference is answered accordingly.

Dated, 22-12-1989.

[No. L-12012/89/85-D.IV (A)]

ARJAN DEV, Presiding Officer

का.अ. 877--औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक प्राक इंडिया के प्रबन्धन के संघर्ष नियोजकों और उनके कर्मचारियों के बीच, अनुबन्ध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार 14-3-90 को प्राप्त हुआ था।

S.O. 877.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the Bank of India and their workmen, which was received by the Central Government on the 14-3-90.

ANNEXURE

BEFORE SHRI V. N. SHUKLA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, JABALPUR (M.P.)

Case No. CGIT/LC(R)(56)/1984

PARTIES :

Employers in relation to the Management of Bank of India, Jabalpur (M.P.) and their workman, Shri S. S. Hazari represented through the Bank of India Staff Union, Vidyarthi Nivas, 175 Yadav Colony, Jabalpur (M.P.).

APPEARANCES :

For Union : Shri A. K. Vidyarthi, General Secretary.

For Bank : Shri R. Menon, Advocate.

INDUSTRY : Banking.

DISTRICT : Jabalpur (M.P.).

AWARD

Dated, February 28, 1990

The Central Government referred the following dispute to this Tribunal, vide Notification No. L-12012/21/84-D.II (A) dated the 11th July, 1984, for adjudication :—

“Whether the action of the management of Bank of India, Jabalpur (M.P.) in relation to their Rahatgarh Branch, Saugor (M.P.), in awarding the penalties of stoppage of 3 increments of Shri S. S. Hazari, Clerk-cum-Cashier having the effect of postponing his future increments and withdrawal of special allowance on permanent basis, under their orders No. PERS/IL/171, dated 23-10-82 and No. PERS/IL/196 dated 23-11-82 is disproportionate to the charges levelled against the workman? If so, to what relief is the workman concerned entitled?”

2. In this case, the facts are almost undisputed which are as follows :—

Shri S. S. Hazari was working as Cash Incharge at Rahatgarh Branch, District Saugor. He was drawing a basic salary of Rs. 620. He was also getting Special Allowance of the post of Head Cashier amounting to Rs. 171 per month. He was issued a charge-sheet on 21-6-1982. The charges were as follows :—

- “(i) On 7-3-1981 at about 11.30 AM when Shri D. K. Jain, customer of Rahatgarh Branch visited the Branch, you demanded a 50 per cent commission from him of the insurance for the loans financed by the Bank. When he rejected your demand, you threatened him about getting the insurance work done through another agent. You also told him to give Rs. 100/200 to Shri B. N. Chaturvedi, Agricultural, Assistant of the Branch in order to spoil his image and bring disreputation to the Bank's image in the eyes of the customers.
- (ii) You lodged false complaint and led a deputation against the Veterinary Doctor, Shri J. N. Budholiya thereby creating an impression in the village that the complaint lodged against the Veterinary Doctor is in your capacity as a Bank employee and creating adverse reputation against the Bank.
- (iii) On 3-8-81 at about 2.00 PM you refused to accept a currency note of Rs. 50 No. JAC 614373 from the customer, Shri Kuldeep Singh Thakur, partner of M/s. Thakur Padam Singh & Brothers, cloth merchants, Rahatgarh, when he came to the Branch to deposit Rs. 10,000 in his account even though the currency note in question was a new one and the then acting Manager, Shri Mohitkar initialled the same.
- (iv) On 3-8-81 you left the Branch premises at about 1.00 PM without taking prior permission of the Branch Manager. Despite 3 times you were called by the Manager through the part-time sepey Shri K. L. Kori, you did not return for duties for about one hour.
- (v) You instigated Shri Bipin Bihari Dixit, proprietor, M/s. Bhanu Oil Mills, Rahatgarh to threaten Shri Madan Lal Sitokey, Cash-cum-Accounts Clerk of the Branch to obtain his support in your mis-deeds. As a result of which, Shri Dixit threatened Shri Sitokey on 27-11-81 at about 8.15 PM with a knife and of dire consequences.
- (vi) You divulged the confidential information regarding the delegated powers of the Manager, balances in the deposit as well as load account, accounts of the customers etc. thereby contravening the code of official secrecy signed by you on 3-1-1981.”

3. During the domestic enquiry the workman in answer to the charges accepted all the charges. The Enquiry Officer, therefore, gave his findings on 27-9-1982 holding the workman guilty of the charges. Thereafter a show cause notice

dated 13-10-1982 was issued to the workman proposing various punishments for each charge of misconduct held proved against him. In answer to the show cause notice also the workman admitted all the contents of the show cause notice. Management vide order dated 23-11-1982 modified the punishments which are as follows:—

1. Stoppage of increments to be concurrent i.e. in all 3 increments to be stopped which should have the effect of postponing his future increments;
2. Warning;
3. Withdrawal of special allowance on permanent basis.

4. According to the workman, he was coerced to admit the charges because the Enquiry Officer had sought for the police force at the time of enquiry. This admission is not an admission in the eye of law. At the time of admission of the applicant in answer to the show cause notice is concerned, he was motivated by the Manager of Rahatgarh Branch and Regional Manager, Jabalpur and was promised that no punishment would be imposed on him and therefore he admitted the contents of the show cause notice. Hence the alleged punishments based on coercion and false promises are liable to be set aside. That apart, the punishments are harsh and excessive and disproportionate to the misconducts alleged against the workman and amount to victimization and unfair labour practice. Under Bipartite Settlement between the Indian Bank Association and workmen and union various punishments cannot be awarded. The workman has accordingly prayed for interference in the matter of punishments.

5. According to the management, the workman was neither coerced at the time of admission of charges nor was motivated and promised as alleged in consequence of which he admitted the contents of the show cause notice. The various punishments have been given in lieu of various charges. They are in accordance with the agreement. The management has taken rather a lenient view and no interference is called for in the quantum of punishments.

6. My learned predecessor vide order dated 23-4-1985 set aside the enquiry and directed the enquiry de novo. In M.P. No. 2620/86 the High Court vide its order dated 11-11-1986 set aside the order of my predecessor and directed that this Tribunal shall after hearing the parties make an award on the question referred to i.e. whether in the circumstances the punishment awarded to the workman is disproportionate to the charges levelled against him. Thus the only question in this reference was whether the said punishments were disproportionate to the charges levelled against him.

7. This Court shall therefore not go behind this reference to find out whether the charges were admitted in coercion or whether the substance of show cause notice were admitted under false assurances that no punishment shall be awarded to him. That apart, the said averments are patently not correct in as much as one would not commit same mistake twice either under coercion or under false assurances. If he had to admit the charges under coercion, under the pressure of the police he would certainly not come out to admit the contents of the show cause notice. I do not disbelieve his officers on this count. Obviously the workman is not a child and therefore this matter has not been made a part of reference.

8. In the same way Bipartite Settlement in relation to punishment referred to by the workman does not bring out that only one punishment will be imposed on the delinquent. Obviously there were as many as six charges which were admitted by the delinquent and six separate punishments on each charge could have been awarded by the management. Charge No. 1 itself is sufficient enough to dislodge the delinquent from service. The banking industry is an industry which is run on good faith and if such faith is shattered it certainly cannot run efficiently and it would not be in the interest of the management as also public at large whose large investments are involved that such types of persons are kept in service.

9. The second charge is equally grave. The 5th and 6th charges are also not minor one. Management, in fact, should have awarded separate punishment for every charge but that does not appear to have been done. However, this is not an issue under reference. That apart, it does not vitiate the punishment.

10. The result is that the management was lenient enough to award punishment to the workman concerned, Shri S. S. Hazari, Clerk-cum-Cashier and it cannot be said that the punishments awarded are disproportionate to the charges against the workman. The order of punishment No. PERS/JL/171 dated 23-10-1982 having been modified by order No. PERS/JL/196 dated 23-11-1982, my finding would be restricted to the subsequent order though both the orders find place in the Schedule of reference. This appears to be the intention of the reference as well because punishment shown in the Schedule of reference relates to subsequent order of punishment. Thus no interference is called for in the matter of punishments. Reference is answered as follows:—

The action of the management of Bank of India, Jabalpur (M.P.) in relation to their Rahatgarh Branch, Saugor (M.P.) in awarding the penalties of stoppage of 3 increments of Shri S. S. Hazari, Clerk-cum-Cashier having the effect of postponing his future increments and withdrawal of special allowance on permanent basis under their order No. PERS/JL/196 dated 23-11-82 is not disproportionate to the charges levelled against the workman. He is not entitled to any relief.

There shall be no order as to costs.

Awarded accordingly.

V. N. SHUKLA, Presiding Officer

[No. L-12012/21/84-D.II(A)]

का. आ. ८७८—औद्योगिक विवाद नमिनिष्ठम्, १९४७ (१९४७ का १४) की धारा १७ के अनुसार में, केन्द्रीय सरकार पंजाब एन्ड सिंध बैंक के प्रबन्धन के संयुक्त नियोजकों और उनके कर्मचारियों के बीच अन्तर्व्यक्ति में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक विवाद-करण, जलपुर के पंचायत को उत्तरिणी करता है, जो केन्द्रीय सरकार का १२८५० का प्राप्ति हुआ था।

S.O. 878.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the Industrial dispute between the employers in relation to the Punjab and Sind Bank and their workmen, which was received by the Central Government on 12-3-90.

ANNEXURE

BEFORE SHRI V. N. SHUKLA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL—
CUM- LABOUR COURT, JABALPUR (M.P.)

Case No. CGIT/LC(R)(72)/1986

PARTIES -

Employers in relation to the management of Punjab and Sind Bank, Hamam Street, Fort, Bombay and their workman Smt. Tara Bai, Sweeper, represented through the Madhya Pradesh Bank Employees Association, Parvana Bhawan, Aminpara, Raipur (M.P.).

APPEARANCES:

For Workman/Union—Shri U. S. Malvia.

For Bank—Shri J. P. Sanghi, Advocate.

INDUSTRY : Banking DISTRICT : Raipur (M.P.)

AWARD

Dated, February, 26, 1990

The Government of India, Ministry of Labour, vide Notification No. L-12012/114/85-D.IV(A) dated the 21st August, 1986 referred the following Schedule for adjudication:—

"Whether the management of Punjab and Sind Bank is justified in denying to Smt. Tara Bai, Sweeper at their Raipur Branch the benefit of payment of 1/2 scale of the wages payable to subordinate staff of the Bank as per the 4th Bipartite Settlement between the Indian Banks Association and All India Bank Employees Association dated 17-9-1984 with effect from 1-3-1981? If not, to what relief the employee concerned is entitled?"

2. Undisputed facts of this case are that Smt. Tarabai is a bank employee at the Raipur Branch of the bank since 1-3-81 as part time worker. She is working as a Sweeper. She is being paid Rs. 100 per month with effect from 1-7-1983.

3. According to the workman, she had to discharge the following duties:—

- Daily sweeping the entire bank premises involving more than 2500 Sq. Ft. Carpet area including cleaning with phenyl water.
- Daily cleaning the Bank's entire furniture with moist cloth.
- Daily fetching and storing water for drinking and above purposes.

4. According to the workman, the discharging of the above duties generally takes 15-18 hours in a week. In accordance with the work involved she is entitled to 1/2 of the wages along with proportionate annual increment under para 4, 5 of the Bipartite Settlement (as applicable to the Banking Industries) between the Union Bank Association and All India Bank Employees Association including this Bank. The Bank in utter discharged to the above settlement as amended from time to time by subsequent settlement, instead of paying 1/2 scale wages with proportionate annual increment has been paying her minimum monthly prescribed wages aggregating to Rs. 60 p.m. from March, 1981 to June, 1983 and Rs. 100 per month with effect from 1-7-1983. She is entitled to half scale wages with proportionate increments as applicable from time to time under the above referred Bipartite Settlement with retrospective effect from 1-3-1981. She is entitled to uniform in every year and all other benefits as obtainable under the settlement to the permanent part time employees, such as medical aid and Provident Fund etc.

5. According to the management, the total area of the bank's premises including the ground floor and top floor is 1700 Sq. Ft. only including the area occupied by toilet, stationery room and record room which are not cleaned by the employee. She is required to sweep only 1500 Sq. Ft. total area which she does within 45 minutes only for six days in a week. The furniture dusting and storage of water is not done by her. Thus total number of hours in a week is only 5-6 hours for which she is being paid Rs. 100 per month. Thus the wages, she is being paid, is on higher side. She attends her work between 9.30 a.m. to 10.15 a.m. only. She is not entitled to press in service the bipartite settlement referred to in the statement of claim. Her claim being not tenable is liable to be rejected.

6. The parties have lead oral evidence. The workman examined herself while the management examined Sashipal Lakhwara in support of their respective cases. Management proved Ex. M/1 according to which Smt. Tara Bai Sweepers is serving in Punjab National Bank also as Sweepers. Thus she is not only serving with the management but also with Punjab National Bank.

7. Smt. Tara Bai admits in her cross-examination that the watchman opens the bank at about 9.30 A.M. When he comes to the bank for sweeping she finds the bank open. She says that manager comes at about 10 or 10.30 a.m. She admits that before the manager comes in, she completes all cleaning work. The banks are closed on Sundays and other holidays and she has not to work on holidays. She has further admitted that she has stopped working in the Punjab National Bank since about last 3 years, thereby admitting that she had been working with Punjab National Bank. She does not say a word about fetching of water and area she has to clean.

8. Thus from the admission of Smt. Tara Bai herself the following facts are established:—

- She works from about 9.30 a.m. to 10.30 a.m. with the management
- She had been working with the Punjab National Bank also.

9. I need not go into details of the area she cleans M.W. 1 Sashipal Lakhwara also says that the said Tara Bai works from about 9.40 a.m. to 10.15 a.m. because the banking business starts at 10.30 a.m. He also states that strong room is opened at 10.30 a.m. He specifically states that she does not do any dusting work. It is done by the temporary peon.

10. Thus it is clear that the claim of Tara Bai is false. She hardly works about 45 minutes in a day. The 'A' to 'A' part of the written statement of the management is not inconsistent to the above version. According to the same, Tara Bai attends the Bank work from 9.30 a.m. to 10.00 a.m. only. Thus it is obvious, that Tara Bai hardly work 5 to 6 hours in a week. Nothing could have been pointed out to me as to how she is entitled to half wages with all the benefits under the circumstances under the alleged settlements. Hence the workman is not entitled to the relief as claimed.

11. I, therefore, answer the reference as follows:—

The management of Punjab and Sindh Bank is justified in denying to Smt. Tara Bai, Sweeper at their Raipur Branch the benefit of payment of 1/2 scale of the wages payable to subordinate staff of the Bank as per the 4th Bipartite Settlement between the Indian Banks Association and All India Bank Employees Association dated 17-9-1984 with effect from 1-3-1983. The concerned employee is not entitled to any relief. There is no order as to costs. Awarded accordingly.

V.N. SHUKLA, Presiding Officer

[No. L-12012/114/85-D.IV(A)]

V. K. VENUGOPALAN, Desk Officer

नई दिल्ली, 12 मार्च, 1990

कानून संख्या- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) के धारा 17 के अन्वये में, केन्द्रीय सरकार विदेशी को. लिमिटेड का मिशन कोलियरी क प्रबंधन के संबंध में निम्नलिखित कोर उनके कर्मियों के बीच प्रमुखता में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक प्रतिक्रिया तकनीक के संस्करण को प्रकाशित करने के, को केन्द्रीय सरकार को 8-3-90 को प्राप्त हुआ था।

New Delhi, the 12th March, 1990

S.O. 879.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure in the industrial dispute between the employers in relation to the management of Methani Colliery of M/s. I. C. Ltd. and their workmen, which was received by the Central Government on 8th March, 1990.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
AT CALCUTTA

Reference No. 76 of 1988

PARTIES :

Employers in relation to the management of Methani Colliery, M/s. E.C. Ltd.,

AND

Their workmen.

PRESENT :

Mr. Justice Sukumar Chakravarty, Presiding Officer.

APPEARANCES :

On behalf of Management—Mr. B. N. Lala, Advocate.

On behalf of Workmen—Mr. Sudarsan Prasad, Assistant Secretary of the Union.

STATE : West Bengal.

INDUSTRY : Coal.

AWARD

By Order No. L-19012(128)/86-D.IV(B) dated 9th June, 1987, the Government of India, Ministry of Labour, referred the following dispute to this Tribunal for adjudication :

"Whether the action of the Management of Methani Colliery of M/s. E.C. Ltd. in not correcting the year of birth of Sri Dargoi Dusad Boiler Fireman of Methani Colliery as 1936 on the basis of the 2nd Class Boiler Attendant Certificate of Competency granted to him under the West Bengal Boiler Attendance Rules, 1958 by the Chairman to the Board of Examiner and terminating his service w.e.f. 1st July, 1986 on the ground of his attaining the age of superannuation is justified? If not, to what relief the workman concerned is entitled?"

2. When the case is called out today, Mr. B. N. Lala, Advocate appears for the Management and Mr. Sudarsan Prasad, Assistant Secretary of the Union appears for the workmen. They file a Joint Petition of Compromise duly signed by both parties. They pray for an Award in terms of the Joint Petition of Compromise.

3. Considered the said Joint Petition of Compromise as well as the submission of the parties. The terms of the Joint Petition of Compromise appear to be fair, reasonable and in the interest of the parties. I therefore, accept the same and pass an 'Award' in terms of the said Joint Petition of Compromise which do form part of this Award as Annexure-'A'.

This is my Award.

Dated, Calcutta,

The 28th February, 1990.

SUKUMAR CHAKRAVARTY, Presiding Officer
[No. L-19012(128)/86-D.IV.B/IR (C. II)]

ANNEXURE-'A'

BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
CALCUTTA

Reference No. 76 of 1988

PARTIES

Employers in relation to the management of Methani Colliery of Eastern Coalfields Ltd.,

AND

Their Workmen.

Joint Petition of Compromise

The humble petition of both the parties herein concerned most respectfully sheweth :

- 1 That the above matter is pending before the Hon'ble Tribunal and the matter has not yet been heard.
- 2 That in the meantime, both the parties mutually discussed the instant matter and have amicably settled the instant matter on the following terms :

Terms of Settlement

- (a) That the workman Sri Dargoi Dusad, Boiler Fireman who superannuated on 1st July, 1986 will be allowed to resume duty w.e.f. 1st March, 1990.
- (b) That the year of birth of the workman as 1936 that is 1st July, 1936 as recorded in the Second Class Boiler Attendant Certificate of competency granted under West Bengal Boiler Attendants Rules, 1958 shall be taken as correct and shall be recorded in the Form-B Register and other records of the employers.
- (c) That the workman concerned shall have no claim for any wages whatsoever for the period of his idleness from 1st July, 1986 to 28th February, 1990, but said period of idleness from 1st July, 1986 to 28th February, 1990 shall be counted for the purpose of payment of gratuity.
- (d) That by this settlement the instant matter stands fully and finally settled.
- (e) That this settlement shall be effective as from the date the Hon'ble Tribunal accepts this settlement as fair and proper.
3. That both the parties pray that the Hon'ble Tribunal may be pleased to accept this settlement as fair and proper and may be further pleased to pass an Award in terms thereof.

And for this act of kindness, both the parties as in duty bound shall ever pray.

Dated this the 24th day of February, 1990.

Sd/-

Union Secretary

For and on behalf of the workman.

Sd/-

Agent

For and on behalf of the
Employers.

का.आ. 880.—प्रौद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार व मैसर्स साउथ ईस्टर्न कोल फील्ड्स लिम. की झुबानेस्वर कोलियरी के प्रबन्धन के संबंध में निम्नलिखित प्रौद्योगिक विवाद में प्रौद्योगिक अधिकरण झुबानेस्वर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-3-90 को प्राप्त हुआ था।

S.O. 880.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the following award of the Industrial Tribunal, Bhubaneswar, as shown in the Annexure in the industrial dispute between the employers in relation to the management of Deulbera Colliery of M/s. South Eastern Coalfields Ltd. and their workmen, which was received by the Central Government on 6-3-1990.

ANNEXURE

INDUSTRIAL TRIBUNAL, ORISSA, BHUBANESWAR

PRESENT :

Shri S. K. Misra, LL B.,
Presiding Officer,
Industrial Tribunal,
Orissa, Bhubaneswar.

Industrial Dispute Case No. 27 of 1988 (Central)

Dated, Bhubaneswar, the 21st February, 1990

BETWEEN

The Management of Deulbera Colliery of M/s South
Eastern Coalfields Ltd. At/P.O. Deulbera Colliery,
Talcher, Dist. Dhenkanal. ...First Party—
Management.

AND

Their workmen, namely, Sri Pradeep Kumar Behera
Represented through Orissa Coalfields Labour Union,
At/P.O. Deulbera Colliery, Talcher, Dist. Dhen-
kanal. ...Second Party—Workmen.

APPEARANCES :

Sri B. Satyavasu, Dy. Personnel Manager : For the First
Party—Management.

Sri P. C. Sahoo, President of the Union : For the Second
Party—workman.

AWARD

The Government of India in the Ministry of Labour, in exercise of the powers conferred upon them by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947) and by their Order No. L-24012/19/88-D.IV(B), dated 28-7-88 have referred the following dispute for adjudication by this Tribunal.---

"Whether the action of the Management of Deulbera Colliery of M/s. S.E.C. Ltd., At/P.O. Deulbera, Dist: Dhenkanal in discharging Sri P. K. Behera, Sweeper from service w.e.f. 5-1-83 is justified? If not, to what relief is the workman concerned entitled?"

2. The workman Pradeep Kumar Behera was appointed as a Sweeper in the Deulbera Colliery with effect from 14-7-82. At the time of his appointment as per the system prevailing in the Colliery he supplied various informations in the form of a declaration. The Management got the informations furnished by the workman verified and found that the informations relating to three questions were false. The second party—workman furnished informations that he had never been arrested, that he had never been prosecuted and that he had never been kept under detention. The First Party—Management having found that these informations were false to the knowledge of the workman, in as much as, he had been arrested and prosecuted in a criminal case, served on him a charge sheet on 16-12-82 calling upon him as to why his services should not be terminated. The second party—workman submitted explanation denying the charges and thereafter without holding an enquiry the First Party—Management discharged him from service. The workman requested the First Party—Management to review the aforesaid order of discharge and reinstate him in service in consideration of the certificate of good character which he had obtained and produced but the First Party—Management did not agree. In the circumstance, a dispute was raised which was admitted to conciliation and the conciliation having failed the present reference was made by the Central Government. The workman challenged the order of discharge passed by the Management in respect of him on the ground that it was punitive and was passed without any enquiry and without giving him any opportunity to defend himself.

3. The First Party—Management took the stand that the workman initially was appointed on probation in which there was a term that during the period of probation his services were liable to be terminated without assigning any reason and further that the appointment was subject to satisfactory verification of the character and antecedents of the workman within the period of probation and in case a verification report is received that he was not fit for employment, his services may have to be terminated without assigning any reason. It was the case of the First Party—Management that though the workman was involved in a criminal case, he concealed the said fact in his declaration and furnished false informations in the declaration that he had not been prosecuted at all. Since this fact came to the knowledge of the Management it called upon him to explain as to why his services should not be terminated. The workman submitted his explanation denying the aforesaid allegations which the management found to be unsatisfactory and therefore, in terms of the appointment letter his services were terminated.

4. On these pleadings, the following issues were framed :—

ISSUES

1. If the action of the Management of Deulbera Colliery of M/s. S.E.C. Ltd., At/P.O. Deulbera, Dist. Dhenkanal in discharging Sri P. K. Behera, Sweeper from service with effect from 5-1-83 is justified?

2. To what relief, if any, Sri Behera is entitled?

5. In this proceeding besides filing and providing several documents, the workman examined himself and no other witness and the Management examined two witnesses.

The workman proved the appointment letter Ext. 1 dated 26/28 June, 1982 and stated that after his appointment, pursuant to the order Ext. 2 he joined as a Sweeper in the Deulbera Colliery on 13-7-82. On 15-12-82 he received the letter Ext. 3 from the Project Officer, Deulbera Colliery wherein it was stated that the declaration form submitted by him at the time of his appointment seemed to be false and wrong informations had been given by him. During verification of his character and antecedents it had been proved that he had been closely associated with a notorious antisocial elements of Talcher Town for which he had been sent up for trial before a Criminal Court in Talcher P.S. case No. 1 of 1-1-1982 u/s 147/342/323/149 of the Indian Penal Code alongwith others. In the said letter he was called upon to explain as to why his services should not be terminated on account of giving such false informations at the time of his appointment. The workman submitted his explanation Ext. 4 on 19-12-82 denying the charges. Thereafter on 4-1-83 he received the order Ext. 5 which stated that the reply submitted by him was found unsatisfactory and as such, the following penalty was imposed upon him for good and sufficient reason. It read :—"You are discharged from the services of the Central Coalfields Limited with effect from 5-1-1983". According to the workman on 24-8-83 he submitted a representation to the Dy. Chief Mining Superintendent of the Colliery requesting him to re-review the decision and to reinstate him (Ext. 6). In this representation (Ex. 6) it was stated that he had been discharged from service due to certain adverse remarks reported against him by the local Police Officer, Talcher at the time of police verification but the case which had been pending against him had since been disposed of and he had been acquitted. It was also stated that he was not connected with any case involving moral turpitude. The Management, however, informed the second party—workman by Ext. 7 dated 10-12-84 that it regretted the request made by him in his representation. The workman proved a certificate given by the Sub-Divisional Police Officer, Talcher, Dist. Dhenkanal on 13-7-84 (Ext. 8) to the effect that the workman was an accused in Talcher G.R. Case No. 3/82 u/s 324/323/107 I.P.C. alongwith other persons but he had been acquitted by the S.D.J.M., Talcher and thereafter there was no further case pending against him. There was a recommendation in the said certificate for reconsideration of his case for appointment to the post of Sweeper in which he had been previously working. The workman also produced the certified copy of the judgment of acquittal passed in the aforesaid G.R. Case

S.O. 8811.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure in the Industrial dispute between the employers in relation to the management of Bhanora Colliery of Mys Eastern Coalfields Ltd. and their workmen, which was received by the Central Government on 6-3-90.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL ASANSOL

Reference No. 44/88

PRESENT :

Shri N. K. Saha,
Presiding Officer.

PARTIES :

Employers in relation to the management of Bhanora
Colliery of M/s. Eastern Coalfields Ltd.

AND

Their workmen

APPEARANCES :

For the Employers — Sri P. K. Das, Advocate.

For the Workman — Sri C. D. Dwevedi, Advocate.

Industry : Coal.

State : West Bengal.

Dated, the 26th February, 1990

AWARD

The Government of India in the Ministry of Labour in exercise of the powers conferred on them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following dispute to this Tribunal for adjudication vide Ministry's Order No. L-24012(269)/87-D.IV(B) dated the 14th July, 1988.

SCHEDULE

"Whether the action of the Management of Bhanora Colliery of M/s. E.C. Ltd., P.O. Charannur, Distt. Burdwan in terminating the services of Sri Ram Sakal Nun'a, Wagon Loader was justified? If not, to what relief the workman concerned is entitled?"

2. During the pendency of the case, today (26-2-90) Sri C. D. Dwevedi, learned Advocate for the union filed a petition, signed by the Vice-President of the concerned union, submitting therein that the concerned union is no longer interested to pursue the instant matter. In the petition the union has also prayed for a 'no dispute' award in this case. Sri P. K. Das, Advocate representing the management has no objection in this regard.

3. Upon consideration of the petition and the submission of the parties, this Tribunal has no other alternative but to pass a 'no dispute' award and accordingly a 'no dispute' award is passed.

This is my award.

N. K. SAHA, Presiding Officer.

[No. L-24012(269)/87-D.IV.B/IR(C-II)]

का.अ. 882 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वये, केन्द्रीय सरकार व मैसर्स ई.सी. लिम. की साचीपुर कोलियरी के प्रबन्धन से संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अन्तर्गत में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण आसंसोल के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-3-90 को प्राप्त हुआ था।

S.O. 882.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure in the industrial dispute between the employers in relation to the management of Lachipur Colliery of M/s E.C. Ltd. and their workmen, which was received by the Central Government on 6-3-90.

837 GI/90—7

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL ASANSOL

Reference No. 45/88

PRESENT :

Shri N. K. Saha,
Presiding Officer.

PARTIES :

Employers in relation to the management of Lachipur
Colliery of M/s. Eastern Coalfields Ltd.

Their Workman

APPEARANCES :

For the Employers — Sri P. K. Das, Advocate.

For the Workman — Sri C. D. Dwevedi, Advocate.

Industry: Coal.

State : West Bengal.

Dated, the 28th February, 1990

AWARD

The Government of India in the Ministry of Labour in exercise of the powers conferred on them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following dispute to this Tribunal for adjudication, vide Ministry's Order No. L-24012(8)/88-D.IV(B) dated the 14th July, 1988.

SCHEDULE

"Whether the action of the Management of Lachipur Colliery of M/s. E.C. Ltd. P.O. Kalaragram, Distt. Burdwan (W.B.) in dismissing Sri Thannu Das, Underground Loader w.e.f 31-10-85 is justified? If not, to what relief the concerned workman is entitled?"

2. During the pendency of the case today (26-2-90) Sri C. D. Dwevedi, learned Advocate for the union filed a petition signed by the Vice-President of the concerned union, submitting therein that the concerned union is no longer interested to pursue the instant matter. In the petition the union has also prayed for a 'no dispute' award in this case. Sri P. K. Das Learned Advocate representing the management has no objection in this regard.

3. Upon consideration of the petition and the submission of the parties, this Tribunal has no other alternative but to pass a 'no dispute' award and accordingly a 'no dispute' award is passed.

This is my award.

N. K. SAHA Presiding Officer

[No. L-24012(8)/88-D.IV.B/IR(C-II)]

का.अ. 883 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वये, केन्द्रीय सरकार व मैसर्स ईस्टर्न कोलफील्ड्स लि. की केन्द्रा कोलियरी के प्रबन्धन से संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अन्तर्गत में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण आसंसोल के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-3-90 को प्राप्त हुआ था।

S.O. 883.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure in the industrial dispute between the employers in relation to the management of Kendra Colliery of M/s Eastern Coalfields Ltd. and their workmen which was received by the Central Government on 6-3-90.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL ASANSOL

Reference No. 47/88

PRESENT :

Shri N. K. Saha,
Presiding Officer.

PARTIES :

Employers in relation to the Management of Kendra
Colliery of M/s. Eastern Coalfields Ltd.

AND

Their Workmen

APPEARANCES :

For the Employers — Sri P. K. Das, Advocate.

For the Workman — Sri Manoj Mukherjee, Advocate.

Industry : Coal.

State : West Bengal.

Dated, the 21st February, 1990

AWARD

The Government of India in the Ministry of Labour in exercise of the powers conferred on them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 has referred the dispute to this Tribunal for adjudication, vide Ministry's Order No. L-24012(192)/87-D.IV(B) dated 18-7-88.

SCHEDULE

"Whether the action of the Management of Kendra Colliery of M/s. Eastern Coalfields Ltd., P.O. Pandaveswar, Dist. Burdwan (W.B.) in refusing employment to Sri Shaktipada Bharari, Pump Khalasi, is justified? If not, to what relief is the concerned workman entitled?"

2. Today (21-2-90) Sri Manoj Mukherjee the learned Advocate for the workman has submitted that he has no instruction to proceed with the case. He has prayed for passing appropriate order. Sri P. K. Das the learned Advocate for the management is also present.

3. As the learned Advocate for the union has no instruction from his client to proceed with the case, it must be presumed that no dispute exists between the parties. As such I have no other alternative but to pass a 'no dispute' award in this case. Hence a 'no dispute' award is passed.

This is my award.

N. K. SAHA, Presiding Officer

[No. L-24012(192)/87-D.IV B/IR(C-II)]

नई दिल्ली, 13 मार्च, 1990

का.अ. 884:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार व मैन. ई.सी. लिम. की मधुजोर 5 व 6 पिट कोलियरी के प्रबन्धता से संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अन्वय में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण आसनसोल के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-3-90 को प्राप्त हुआ था।

New Delhi, the 13th March, 1990

S.O. 884.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Asansol as shown in the Anne-

xure in the industrial dispute between the employers in relation to the management of Madhujore 5 & 6 Pit Colliery of M/s. E.C. Ltd. and their workmen, which was received by the Central Government on 6-3-90.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUS-
TRIAL TRIBUNAL ASANSOL

Reference No. 17/89

PRESENT :

Shri N. K. Saha,
Presiding Officer.

PARTIES :

Employers in relation to the management of Madhu-
jore 5 & 6 Pit Colliery of M/s. E.C. Ltd.

AND

Their Workman

APPEARANCES :

For the Employers — Sri P. K. Das, Advocate.

For the Workman — Sri Manoj Mukherjee, Advocate.

Industry : Coal.

State : West Bengal.

Dated, the 21st February, 1990

AWARD

The Government of India in the Ministry of Labour in exercise of the powers conferred on them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following dispute to this Tribunal for adjudication vide Ministry's Order No. L-22012(155)/88-D.IV(B) dated the 14th March, 1989.

SCHEDULE

"Whether the action of the Management of Madhujore 5 & 6 Pit Colliery of M/s. E.C. Ltd., P.O. Andal, Dist. Burdwan (W.B.) in dismissing Sri Thatu Majhi, Under-ground Loader, w.e.f. 23-6-86 is justified? If not, to what relief the concerned workman is entitled?"

2. Today (21-2-90) Sri Manoj Mukherjee the learned Advocate for the workman has submitted that he has no instruction to proceed with the case. He has prayed for passing an appropriate order. Sri P. K. Das the learned Advocate for the management is also present.

3. As the learned Advocate for the union has no instruction from his client to proceed with the case, it must be presumed that no dispute exists between the parties. As such I have no other alternative but to pass a 'no dispute' award in this case. Hence a 'no dispute' award is passed.

This is my award.

N. K. SAHA, Presiding Officer

[No. L-22012(155)/88-D.IV.B/IR(C-II)]

नई दिल्ली, 14 मार्च, 1990

का.अ. 885:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार व मैन. ईस्टर्न कोलफील्ड्स लि. के जोखिल्ला सब एरिया के प्रबन्धता से संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अन्वय में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जनबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-3-90 को प्राप्त हुआ था।

New Delhi, the 14th March, 1990

S.O. 885.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Western Coalfields Ltd., Umaria Colliery, Johilla Sub Area and their workmen, which was received by the Central Government on 12-3-90.

ANNEXURE

BEFORE SHRI V. N. SHUKLA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, JABALPUR (M.P.)

Case No. CGIT/LC(R)(25)/1987

PARTIES :

Employers in relation to the management of Johilla Sub-Area of W.C. Ltd., P.O. Nowrozabad Colliery, Distt. Shahdol (M.P.) and their workman, Shri Akali Chamar, General Mazdoor represented through the Koyla Mazdoor Sabha, AITUC, Sohagpur Area, P.O. Dhanpuri, District Shahdol (M.P.).

APPEARANCES :

For workman/union : Shri Jagdish Singh.

For Management : Shri R. Menon, Advocate.

INDUSTRY : Coal Mine. DISTRICT : Shahdol (M.P.).

AWARD

Dated, February 28, 1990

The Government of India, Ministry of Labour, vide Notification No. L-22012/15/86-D.V. dated 26th March 1987 referred the following Schedule for adjudication :—

SCHEDULE

"Whether the dismissal of Shri Akali Chamar, General Mazdoor of Umaria Colliery by the Sub-Area Manager, Johilla Sub-Area of Western Coalfields Limited, Post Nowrozabad Colliery, Distt. Shahdol vide letter No. WCL/SAM/J/PD/84/4563 dated 4-10-84, is justified? If not, to what relief the workers is entitled for?"

2. Undisputed facts of the case are that one Shri Akali Chamar was a general mazdoor of Umaria Colliery. The Sub-Area Manager, Johilla Sub-Area of Western Coalfields Ltd., Post Nowrozabad Colliery, District Shahdol vide his letter dated 4-10-1984 dismissed him from service. It is also not disputed that a domestic enquiry was held against the said Akali Chamar and he was found guilty of gross misconduct.

3. The case of the workman in brief is that he was working in Umaria Colliery since 1971 under Sub-Area Manager Johilla Sub-Area Western Coalfields Ltd. According to him while he was working he got injury and therefore light work was given to him and he was attached to bungalow duty of the Manager of Umaria Colliery. While he was working in the bungalow, he raised an objection that he will not wash dirty cloths, in consequence of which there was a hot talk between the workman and the manager and the manager called him bad names and beat him. He got him beaten by other also. A report was lodged against the Manager by the workman, the case relating to which is pending in the Court. He was charged on 30-7-1974 and again another charge-sheet was given to him on 5-8-1984 which are contrary to law and are false. There being no certified Standing Orders, the alleged enquiry which has been held against him under the said Standing Orders is illegal. At the time of the enquiry the Manager intimidated the witnesses of the workman. Hence they could not be produced. The witnesses have given false statement against him because of the influence of the Manager, hence his order of termination from service is illegal. On the other hand, the workman

was badly beaten by the Manager and his supporters as a result of which he sustained grave injuries and he was treated in the District Hospital. Even then the local police supported the Manager. Thus the workman has been victimised and his dismissal is illegal. The same be set aside and he be reinstated with all consequential benefits.

4. According to the management, the workman Shri Akali Chamar assaulted Shri T. K. Roy, Manager, Umaria Colliery on 30th July, 1984. He was accordingly charge-sheeted. Enquiry was held against him and after due enquiry he was found guilty of misconduct of assaulting the Manager, Shri T. K. Roy. If such misconduct is tolerated the management would not be able to do its work. The management has denied the allegations made by the workman against the Manager. The management has further prayed that it may be permitted to lead further evidence in support of its contention. The prayer is, therefore, liable to be rejected. The dismissal is justified and the workman is not entitled to any relief whatsoever.

5. Following issues are framed by my learned predecessor and my findings are accordingly against them :

ISSUES	FINDINGS
1. Whether the enquiry is proper and legal ?	Yes.
2. Whether the management is entitled to lead evidence before this Tribunal ?	Yes.
3. Whether the punishment awarded is proper and legal ?	Yes.
4. Whether the termination action taken against the workman is justified on facts of the case ?	Yes.
5. Relief and costs ?	As answered

REASONS FOR MY FINDINGS :

6. Issue No. 2.—As the management has made a prayer to lead evidence before the Tribunal at the earliest opportunity in their written statement, they are entitled to lead evidence before this Tribunal. The issue is answered in the affirmative.

7. Issue Nos. 1, 3 and 4.—I will take all these issues together for the purpose of brevity and convenience.

8. At the outset I must point out that the validity of the enquiry has been challenged on the following grounds :—

- The Manager, Umaria Colliery gave him a charge-sheet on 30-7-1984, then again Sub-Area Manager, Johilla Sub-Area gave another charge-sheet on 5-8-1984. This is contrary to law.
- There being no Certified Standing Orders and the enquiry having been held under the Standing Orders, it is bad in law.
- On one hand, management concocted its witnesses and on the other hand the Manager threatened his witnesses in consequence of which they could not be produced in the domestic enquiry.

9. So far the question of giving the charge-sheet twice is concerned it does not affect the merits of the case because even the workman himself stated that the charge was the same in both the charges. That apart, I have not been able to find out two charge-sheets on the record of the domestic enquiry. Thus on this count the domestic enquiry cannot be held illegal or invalid.

10. So far the next point i.e. the Standing Orders are not certified according to which domestic enquiry was held illegal is concerned, there is nothing on record to show whether there are any such Standing Orders according to which the enquiry was held. Having perused the file of the enquiry, I have not been able to find out as to how the

enquiry could be vitiated on the alleged technical ground or the enquiry was prejudicial to the workman except the points raised which I shall deal hereinafter.

11. The next point to be considered therefore remains is whether the management had concocted the witnesses and the workman was not permitted to read his evidence due to the unreasoning given by the Manager to its witnesses. Having gone through the entire enquiry, I have not been able to find anything which could help the workman in any manner whatsoever. After the workman was charge-sheeted he obviously avoided to receive the charge-sheet, he had given reply to the charge-sheet. In his statement before the enquiry officer, Shri Akali has not said a word to the effect that because he had refused to wash the dirty clothes of the manager at his bungalow therefore he was beaten by him and also by others at his instance. Thus the cause of alleged assault and the defence brought out by Shri Akali in his statement does not find place in the enquiry proceedings.

12. Management has examined Tapas Kumar Roy as M.W. 1, Bhanu Prasad Gautam as M.W. 2, Keshari Singh as M.W. 3, Yunus Khan as M.W. 4 and Ramgopal Vishwakarma as M.W. 5 and Girdhar Chaudhary as M.W. 6 in the enquiry proceedings.

13. According to M.W. 1 Tapas Kumar Roy while he was going to his office from the lamp room at about 8.15 a.m. on 30th July, 1984 Shri Akali Chamar came to him, he stopped him and asked him as to what has happened to the light duty which was to be assigned to him. The witness says that he had told him that he will inform him about the same in the office but he insisted that he should tell him about light duty there only. He further says that when he started going again Shri Akali Chamar took out his chappals and gave two-three blows on his head, B. P. Gautam who was nearby came there and caught hold of Shri Akali Chamar, Girdhar Chaudhary, Bhanu Prasad Gautam, Keshari Singh, Ramgopal saved him. He thereafter went to the Police Station and lodged the report. He also informed about the incident to Sub-Area Manager of Johilla Sub-Area, M.W. 2 Bhanu Prasad Gautam, M. W. 3 Keshari Singh, M.W. 4 Yusuf Khan, M.W. 5 Ramgopal Vishwakarma and M.W. 6 Girdhar Chaudhary have supported this witness on all the material particulars. All the witnesses have stated that at the material time Shri Akali stopped the Manager and gave him two-three chappal blows on his head. They came for rescue and saved the Manager from being further beaten.

14. During the cross-examination, all these witnesses have been suggested that at that time Akali Chamar had just requested the Manager to give light duty to him as a result of which they caught hold of him and beat him mercilessly. He was taken to hospital, examined by the doctor and thereafter a report was lodged by him. All the witnesses have denied this fact.

15. When the delinquent Akali was called upon to adduce the witnesses in defence, he told the Enquiry Officer that he does not want to adduce any evidence except examining himself. Shri Akali was, therefore, examined and he narrated the same story that was suggested to the witnesses for the management. This witness gives detailed version of the fact that he was insisting from time to time to attendance clerk to give him light duty but to no effect. Thereafter, he went to the Manager, but he also did not pay any heed to his request. On the 29th also he went to the Attendance Clerk who told him that he may see T. K. Roy, Overman. He met T. K. Roy, Overman, who told him that he may meet him after sometime. When he met him after sometime he told him that he may see him after the shift, but later on he told that he may come at about 4.00 p.m. but even then light duty was not given to him.

16. He further says that on 30-7-1984 he went to the Attendance Clerk in the morning but the Attendance Clerk did not give him the light duty and asked him to see the Manager. When the Manager was coming from the stores towards the office he again requested the Manager to give him light duty. The Manager refused to give him light duty. He repeatedly requested him. He followed him, tried to stop him and again requested him to give him light duty. He was little irritated and told the Manager whether the colliery

belongs to him or his father and why he should not give him light duty. Saying so he bent low. It is at this juncture that Bhanu Babu came there and caught hold of him from his waist. The Manager gave him two slaps. Yunus and others also came there and beat him. He became unconscious. The doctor came there and treated him. Thereafter, police came there and took him to the police station.

17. This fact finds place in his report Ex. W/2 dated 1-8-1984. As per Ex. W/3 the doctor found number of contusions on the body of Akali. On 1-8-1985 as per Ex. W/4 however, no bony injury was seen on his body by the doctor. In his report Ex. M/5 also Shri Akali has narrated almost similar facts.

18. From the statement of Akali as corroborated by report Ex. W/2 and Ex. W/5 and the medical evidence Ex. W/3, it is clear that Akali was certainly beaten as suggested by him. But from the above evidence, it is also clear that he was beaten after he had assaulted the Manager by giving chappal blows to him because he did not give him light duty.

19. It may be noted that during his cross-examination in answer to question 5, Akali admitted that when he was given light duty he used to work and if he was not given light duty he used to go home at times. He further admits that he had no enmity with the Manager. This also shows the conduct of Shri Akali Chamar that he would do nothing but light duty else he would go home. He has also stated in cross-examination in answer to question 2 that he would work for about two hours at the pump, picking up the ammunition bags and thereafter he will work for two hours at the house of T. K. Roy, Overman. There is, however, no substantial evidence to show that because he got certain injuries while he was working in the mine as a result of which he could not do heavy work and therefore he was entitled to light work. Akali was beaten by certain persons is different matter relating to which criminal case is pending according to Akali Chamar. But this by itself would not mitigate the grave misconduct done by Shri Akali Chamar in stopping the Manager from going on duty and giving him chappal blows. Akali was given proper, reasonable and sufficient opportunity to show that in fact he had not beaten the Manager but on the other hand he was beaten by the Manager because he demanded light work. On the other hand, it was established that he had beaten the Manager and thereby committed gross misconduct.

20. I may repeat once again that beating of Akali Chamar by the Manager and others as alleged by him is all together a different matter which was in consequence of the beating by Akali Chamar with the chappals to the Manager.

21. Akali Chamar has utterly failed to establish that the witnesses of the management were either concocted or he was not permitted to adduce his defence in the domestic enquiry. I have gone through the documents filed by the workman as also by the management. I have also gone through the statement of W.W. 1 Akali Chamar and obviously his statement is not convincing which brings out a different story altogether. D. S. Goswamy has been examined on behalf of the management to show that the entire enquiry was not only proper but the facts brought out in the enquiry are well founded.

22. Thus not only from the enquiry records but also from the evidence, it is established that the enquiry was validly held and the points raised by Akali Chamar challenging the enquiry as given above are not established.

23. Thus not only the charge of misconduct against Akali Chamar has been proved, but also the enquiry was in accordance with law. That being so, Shri Akali Chamar has been rightly found guilty of misconduct by the Enquiry Officer.

24. So far the quantum of punishment is concerned nothing short of dismissal was the punishment which was awarded to him in the facts and circumstances of the case. Thus no interference is called for in the quantum of punishment.

25. My findings to the issues are as follows :—

1. The enquiry is proper and legal.
2. The punishment awarded is proper and legal.
3. The termination, action taken against the workman is justified.

The workman is, therefore, not entitled to any relief. My answer to the reference is, therefore, as follows :—

The dismissal of Shri Akali Chamar, General Mazdoor of Umaria Colliery by Sub-Area Manager, Johilla Sub-Area of Western Coalfields Ltd., Post Nowroza-bad Colliery, District Shahdol, vide WCL/SPM/J/PD/84/4563, dated 4-10-84 is justified. The workman is not entitled to any relief.

26. The parties are directed to suffer their own costs. Awarded accordingly.

V. N. SHUKLA, Presiding Officer
[No. L-22012(15)/86-D.V/IR (C-II)]

of Methani Colliery on the ground of his attaining the age of superannuation w.e.f. 1-7-1985 is justified? If not, to what relief the workman concerned is entitled?"

2. When the case is called out today, Mr. B. NNN Lala Advocate appears for the Management and Mr. Sudarsan Prasad, Assistant Secretary of the Union appears for the workmen. They file a Joint Petition of Compromise duly signed by both parties. They pray for an Award in terms of the Joint Petition of Compromise.

3. Considered the said Joint Petition of Compromise as well as the submission of the parties. The terms of the Joint Petition of Compromise appear to be fair, reasonable and in the interest of the parties. I therefore, accept the same and pass an 'Award' in terms of the said Joint Petition of Compromise which do form part of this Award As Annexure-A.

This is my Award.
Dated, Calcutta,
The 28th February, 1990.

SUKUMAR CHAKRAVARTY, Presiding Officer.
[No. L-19012/(127)/86-D. IV. B/IR (C. II)]

ANNEXURE—A

BEFORE THE HON'BLE PRESIDING OFFICER
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL, CALCUTTA

Reference No. 78 of 1968

PARTIES :

Employers in relation to the management of Methani colliery of Eastern Coalfields Ltd.

AND

Their Workmen

Joint petition of compromise.

The humble petition of both the parties herein concerned most respectfully sheweth :—

1. That the above matter is pending before the Hon'ble Tribunal and the matter has not been heard as yet.
2. That in the meantime, both the parties mutually discussed the instant matter and have amicably settled the instant matter on the following terms :

TERMS OF SETTLEMENT :

- (a) That the workman Shri Narayan Bouri, Machine Driver with superannuated on 1-7-1985 will be allowed to resume duty w.e.f. 1-3-1990.
- (b) That in view of the fact that there is discrepancy in the record of year of birth of the workman concerned between that recorded in the current Form-B Register as 1935 and that recorded in the old Form-B Register as 1925, the workman shall appear before the Apex Medical Board of the employers at Sanctoria Hospital for determination of his age on the date fixed by the employers.
- (c) That the age of the workman that may be determined by the Appex Medical Board as stated in the foreign para shall be binding on both the parties.
- (d) That the workman concerned will have no claim for any wages whatsoever for the period of his idleness from 1-7-1985 to 28-2-1990 but this period from 1-7-1985 to 28-2-1990 shall be counted only for the purpose of payment of gratuity.

का.आ. 886:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) का धारा 17 के अनुसरण में, केन्द्रिय सरकार व मैसर्स ई.सी. लिम. का मियाना कॉलियरी के प्रबंधन से संबंध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रिय सरकार औद्योगिक अधिकरण, कलकत्ता के पंचरट को प्रकाशित करती है, जो केन्द्रिय सरकार को 8-3-90 को प्राप्त हुआ था।

S.O. 886.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure in the industrial dispute between the employers in relation to the management of Methani Colliery of M/s E. C. Ltd. and their workmen, which was received by the Central Government on 8-3-1990.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL AT CALCUTTA

Reference No. 78 of 1988

PARTIES :

Employers in relation to the management of Methani Colliery of M/s. E. C. Ltd.

AND

Their Workmen

PRESENT :

Mr. Justice Sukumar Chakravarty
.. Presiding Officer.

APPEARANCES :

On behalf of Management : Mr. B. N. Lala, Advocate.

On behalf of Workmen : Mr. Sudarsan Prasad, Assistant Secretary of the Union.

STATE : West Bengal.

INDUSTRY : Coal.

AWARD

By Order No. L-19012/(127)/86-D. IV (B), dated 9th June, 1987, the Government of India, Ministry of Labour, referred the following dispute to this Tribunal for adjudication :—

"Whether the action of the Management of Methani Colliery of M/s. E. C. Ltd. in termination the services of Shri Narayan Bouri, Machine Driver

- (e) That by this settlement the instant matter is fully and finally settled.
- (f) That this settlement shall be effective on the date the Hon'ble Tribunal accepts the settlement and passes an Award in terms thereof.
3. That both the parties pray that the Hon'ble Tribunal may be pleased to accept this settlement as fair and proper and may be further pleased to pass an Award in terms thereof.

And for his act of kindness both the parties as in duty bound shall ever pray.

Dated this the 24th day of February, 1990.

Union Secretary,

For and on behalf of the
workman.

Agent
For and on behalf of the
Employers.

वा.अ. 887:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार व वेस्टर्न कोल-फील्ड्स लिम. की बैलारपुर कोलियरीज सब एरिया नं. 4 के प्रबन्धनक से संबद्ध निरीक्षकों और उनके कर्मचारों के बीच, अनुबन्ध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, सं. 1 बम्बई के पंचाट की प्रमाणित करती है, जो केन्द्रीय सरकार को 6-3-90 को प्राप्त हुआ था।

S.O. 887.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 1, Bombay as shown in the Annexure in the industrial dispute between the employers in relation to the management of Sub Area Manager, Sub Area No. 4, Ballarpur Colliery of W.C. Ltd. and their workmen, which was received by the Central Government on 6-3-1990.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. I AT BOMBAY PRESENT :

Justice S. N. Khatri, Presiding Officer.

Reference No. CGIT-15 of 1988

PARTIES :

Sub Area Manager, Sub Area No. 4.
Ballarpur Collieries,
M/s. Western Coalfields Limited,
P.O. Ballarpur,
Distt. Chandrapur.

Versus

Their Workmen.

APPEARANCES :

For the Management.—Shri A. K. Sasidharan, Advocate.

For the Workmen.—No appearance.

INDUSTRY : Coal & Mines

STATE : Maharashtra

Nagpur, the 22nd day of February, 1990

AWARD

The Central Government has referred to this Tribunal the following industrial dispute for adjudication under Section 10(1)(d) of the industrial disputes Act, 1947 :

"Whether the action of Sub Area Manager, S.A. No. 4, Ballarpur Collieries, M/s. Western Coalfields Ltd. P.O. Ballarpur Distt. Chandrapur, in dismissing the service w.e.f. 17-7-1979 of Shri Panja Linga, Shri Bajla Madna, Shri Talagampa Narasayya and with effect from 29-1-1980 of Shri Sura Ramdeo Gattayya is justified. If not, then to what relief these workers are entitled to?"

2. The Maharashtra Pradesh Rashtriya Koyala Khadan Kamgar Sangh, Chandrapur, who have raised the industrial dispute on behalf of the four workmen, have chosen to remain absent, although the matter has been adjourned about a dozen of times. The reference has become about 2 years old. Eventually I am compelled to decide it in the absence of the workman.

3. The workman concerned, Panja Linga, Bajla Madna, Talagampa Narasayya and Sura Ramdeo Gattayya, were at the material time working in the Sasti Colliery, managed by M/s. Western Coalfields Limited. The workmen have not filed any statement of claim. The case as made out by the Management in their written statement in short is this. An unfortunate incident took place on the afternoon of 16-8-1972. The Management declared payment of 4 per cent of Bonus to the Workmen. The Workmen were not happy with this decision, as they were insisting for bonus at the higher rate of 8.33 per cent. The Union leaders had issued a mandate to the Workers not to receive payment at the rate granted by the Management. On the relevant afternoon, the Management had planned to distribute the bonus. About 500-600 workers, including the present Workmen, turned up at the office and formed themselves into an unlawful assembly with the common object of making murderous assault on Manager Roy and on some other employees loyal to the Management. The mob is alleged to have indulged in three incidents during the course of the same transaction. First they went to the Police Out post and there assaulted Head Constable Pochanna and Singha Rao. Thereafter, they proceeded to the Bungalow of Manager Roy and there assaulted his five servants, Laljung, Shripal Singh, Bramhmadeosingh, Narprasad and Chalakhu. Shri Roy somehow succeeded in saving himself from the wrath of the mob by concealing himself inside the bungalow. Last, the assembly proceeded to the house of one Bontal Maryalu, who was not a member of the Union and was loyal to the Management, and caused grievous hurt to him.

4. After the investigation was over, as many as 29 persons, including the four workmen, were put on trial before the learned Additional Sessions Judge, Chandrapur, on various charges under Sections 143, 147, 148, 447/149, 427/149, 336/149, 333/149 and 307/149 I.P.C. The learned Judge convicted 12, including the four Workmen on several charges. In an appeal preferred to the Nagpur Bench of the High Court held that the first incident alleged to have substantially maintained. As the position finally emerges, the High Court held that the first incident alleged to have been perpetrated at the Police Outpost was not proved, while the other two—namely at the Bungalow of the Manager Roy and the house of Bontal Maryalu—stood duly proved. It was further held that of the four Workmen, Telamgampa Narasayya was involved in both of these incidents. Bajla Madna and Panja Linga were involved only in the first incident, and the fourth Workman Sura Ramdeo Gattayya in the second only. The High Court confirmed the conviction of the first three under Sections 143, 147, and 336/149, 325/149, 427/149, 323/149, 447/149 and of Sura under Sections 143, 147 and 325/149 I.P.C. Their conviction under Section 307/149 was reduced to the lesser one under Section 325/149. The four Workmen were awarded several substantive sentences, the highest being for four years rigorous imprisonment under Section 325/149. All the sentences were directed to run concurrently.

5. It appears that one of the workmen, Sura Ramdeo Gattayya had preferred an appeal to the Supreme Court which has since been dismissed.

6. The Management issued charge-sheet to all the four Workmen under Clause 13(1)(13) of their Standing Orders for the misconduct of being connected for the aforesaid criminal offences. None of the workmen appeared in the

departmental proceedings, although duly served. Eventually the Management dismissed all the four from service.

7. The Management have filed a true copy of the judgement of the High Court in appeal (Ex. M-5). They have also filed material papers pertaining to the departmental enquiry held by them against the four Workmen. The charge-sheet dated 21-5-1979, is at Ex. M-3. Ex. M-1 is the letter dated 17-7-1979, issued to Talagampa Narasayya, Bajla Madna and Praja Linga, informing them that they had not sent any reply to the charge-sheet and that they are being dismissed for the misconduct with which they were charged. Ex. M-2 is a similar letter dated 29-1-1980, issued to Sura Ramdeo Gattayya. A copy of the Standing Orders is filed at Ex. M-4. I have gone through all these papers. All these materials submitted by the Management remain un rebutted. They satisfactorily prove that the Workmen have been convicted for the offences as indicated above. Needless to say that the offences committed by them are serious. The disciplinary proceedings do not appear to be vitiated by any flaw. As a result of violence perpetrated by the mob including the four Workmen, grievous hurt was caused to one person and simple hurt to as many as four. The punishment of dismissal in the circumstances of the case is quite just and proper.

8. In the result, it is held that the action of the Sub Area Manager, S.A. No. 4, Ballarpur Collieries, M/s. Western Coalfields Limited, Chandrapur, in dismissing Workmen Panja Linga Bajla Madna, Talagampa Narasayya and Sura Ramdeo Gattayya is justified. These Workmen are not entitled to any relief. No orders as to costs. Award accordingly.

S. N. KHATRI, Presiding Officer

[No. L-22012(51)/83-D.III.B/IR(C.B)]

नई दिल्ली, 19 मार्च, 1990

का.अ. 888:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ब मंसर्ज ई.सी. लिम. की धर्मोमेन कोलियरी के प्रबन्धन से संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, धामनसोल के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-3-90 को प्राप्त हुआ था।

New Delhi, the 19th March, 1990

S.O. 888.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure in the industrial dispute between the employers in relation to the management of Dhemomain Colliery of M/s. E.C. Ltd. and their workmen, which was received by the Central Government on 14th March, 1990.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, ASANSOL

Reference No. 20/87

PARTIES:

Employers in relation to the management of Dhemomain Colliery of M/s. Eastern Coalfields Ltd.,

AND

Their workman.

PRESENT:

Shri N. K. Saha, Presiding Officer.

APPEARANCES:

For the Employers—Shri R. S. Murthy, Advocate.

For the Workman—Shri Somnath Chakravorty, Advocate.

INDUSTRY : Coal.

STATE : West Bengal.

Dated, the 7th March, 1990

AWARD

The Government of India in the Ministry of Labour in exercise of the powers conferred on them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following dispute to this Tribunal for adjudication vide Ministry's Order No. L-24012(114)/87-D.IV(B) dated the 26th November, 1987.

SCHEDULE

"Whether the action of the Management of Dhemomain Colliery of M/s. E.C. Ltd., in dismissing Sri Kanhai Dutta, Fitter with effect from 8th November, 1985, was justified? If not, to what relief the workman is entitled?"

2. The case of the management in brief is that Sri Kanhai Dutta was a Tyndel (Fitter) in Dhemomain Colliery of Eastern Coalfields Ltd. Havildar Jamuna Singh (P.W.-1) and Chandradeo Nunia, P.W.-2 (Rajendra Nunia in chargesheet) are the Security Personnel of that colliery. In the night of 13th/14th August, 1985 Jamuna Singh and Rajendra Nunia were on patrol duty in the said colliery. At about 2 a.m. they found that Sri Kanhai Dutta was stealing away a conveyor belt measuring 42 ft. in length from the B.C. Seam incline. Sri Kanhai Dutta was caught red-handed by the said Security Personnel. He was made to carry the said conveyor belt to office. The superior officer was informed. Ultimately the authority started a departmental proceedings against Sri Kanhai Dutta and the following charge was framed against him in the charge sheet dated 24th August, 1985:

"It has been reported to the undersigned that on 14th August, 1985 at about 2 a.m. you were stealing away about 42 ft. long conveyor belt from B.C. Seam incline when you were caught red-handed by Sri Jamuna Singh Havildar and Rajendra Prasad Nunia Security Guard who were on duty during the night shift on 13th August, 1985.

Your above act amounts to serious misconduct under para 17(1)(a) and (i) of the Model Standing orders applicable to Coal Mining Industries.

You are hereby placed under suspension till further order."

In reply Sri Kanhai Dutta submitted the following statement:

"On 14th August, 1985 after my duty hours when I was witnessing the dance performance near the main gate, a Havildar called me and take me to the office premises and on good faith I accompanied him upto the office. The charge as levelled against me for stealing about 42 ft. long conveyor belt is totally baseless as you can imagine that such a heavy thing cannot be carried by a single person like me.

The charge is denied and hence it is requested that the charge sheet may kindly be withdrawn."

3. In the departmental enquiry Sri Kanhai Dutta the concerned workman was found guilty by the Enquiry Officer and ultimately he was dismissed from service w.e.f. 8th November, 1985. Against that dismissal order a dispute was raised and went upto the Ministry and ultimately the Ministry has referred the matter to this Tribunal for adjudication.

4. In a Reference like the present one, this Court is to decide the following points:

(i) Whether the departmental enquiry was properly held. If not, this Court will set aside the result of the entire departmental enquiry and shall hold fresh enquiry.

(ii) If the Court finds that the departmental enquiry was fairly and properly held, in that case the Court will reappraise the evidence adduced by the parties in the domestic enquiry and shall come to a finding whether the conclusion arrived at by the Enquiry Officer in the domestic enquiry was proper.

(iii) If the Court finds that the finding of the home enquiry is correct, in that event the Court shall consider the quantum of punishment awarded by the domestic enquiry.

5. In this case the first point was taken as a preliminary issue and the same was decided in favour of the management by the order passed by this Court on 26th May, 1988. The relevant portion of that order reads as follows:

"Therefore, on consideration of the enquiry proceedings, the other materials on record and facts and circumstances, I am inclined to hold that the domestic enquiry did not suffer from any irregularity and that all the requirements of a valid enquiry as enunciated in the case of *Sur Enamel Stamping Works and the Workman (Supra)* by the highest Court of the land, have been fulfilled in this case and the enquiry can be safely said to have been properly held and that it was held in accordance with the rules of natural justice and the conclusions reached by the Enquiry Officer were not perverse. Accordingly I cannot but hold that the enquiry did not violate the principles of natural justice and the same should be accepted and must stand."

6. So we are now to decide the second issue. The jurisdiction on this point has been conferred to this Court by Section 11-A of the Industrial Disputes Act, 1947 which reads as follows:

"11-A. Powers to Labour Courts, Tribunals and National Tribunals to give appropriate relief in case of discharge or dismissal of workman—Where an industrial dispute relating to the discharge or dismissal of a workman has been referred to a Labour Court, Tribunal or National Tribunal for adjudication and, in the course of the adjudication proceedings, the Labour Court, Tribunal or National Tribunal, as the case may be, is satisfied that the order of discharge or dismissal was not justified it may, by its award, set aside the order of discharge or dismissal and direct reinstatement of the workman on such terms and conditions, if any, as it thinks fit, or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require:

Provided that in any proceeding under this section the Labour Court, Tribunal or National Tribunal, as the case may be shall rely only on the materials on record and shall not take any fresh evidence in relation to the matter."

It is now the settled position of law that this Tribunal is now to act almost like Court of First Appeal and shall reappraise the evidence to come to a finding whether the conclusion arrived at by the domestic Tribunal was legal and fair on the basis of evidence on record. It is also the settled position of law that at this stage the parties have no right to adduce any fresh evidence and the Court is to act only on the basis of the materials which are already on record.

7. Before entering into the merits of the case, I like to clear certain points:

It is a case of theft. So we are to follow the cardinal principles of criminal jurisprudence. In the trial of a criminal case the prosecution is to prove its own case beyond any reasonable doubt and the accused has no onus to discharge. The lacuna of the defence case does not help the prosecution to prove its case. The prosecution is to stand on its own legs. Accused may make false statement for that no adverse presumption can be drawn against him. The accused may also take inconsistent and improbable pleas and for that no adverse presumption can be drawn against him. We are also

to keep in mind that if it is found that the prosecution has withheld any piece of material evidence, in that case the adverse presumption shall be drawn against the prosecution according to Section 114 of the Indian Evidence Act. Keeping those principles in mind we are to reappraise the evidence in this case.

8. In this case the management has examined in all 9 witnesses (Sri A. B. Sarkar was examined as witness but not numbered) and the workman has examined in all 6 witnesses in the domestic enquiry. The learned Lawyer for the management has taken me through the entire evidence. He has urged before me that Havildar Jamuna Singh and Chandradeo Nunia have stated that they caught the concerned workman red-handed with the stolen conveyor belt and the DW-3 Gouranga Roy also found him carrying the conveyor belt. So the Court must hold that the case of the management has been well proved.

9. In this case stolen conveyor belt was not produced before the Enquiry Officer. The workman has taken the specific plea that a 42 ft. long conveyor belt cannot be carried by a single person like him. The learned Advocate for the management has urged before me that the accused was a Tyndel. He has shown me that according to dictionary Tyndel means a person who carries heavy material. A tyndel is a person generally employed in moving engineering stores, drums of oil and greases and also responsible for erection and dismantling of structure, installation and withdrawal of machinery. By pointing out the same he has urged before me that it was very easy for the present workman to carry 42 ft. long conveyor belt though we do not know the weight of the same. In my opinion the non-production of conveyor belt itself is fatal for the management and from that we can safely conclude that the story was not proved beyond reasonable doubt in view of the plea of the workman. So according to the principles of criminal jurisprudence the workman is entitled to get benefit of doubt. On this count alone it must be held that the workman is not guilty.

10. Be that as it may. It is the settled position of law that at this stage this Court has no jurisdiction to allow the parties to adduce fresh evidence. But it is a Court of social justice. I agree that the parties have no jurisdiction to adduce any fresh evidence, but I think that the Court has an inherent power to call for any evidence if the Court finds that such evidence is required for proper adjudication of the case. That has happened in this case also. My learned predecessor Sri G. P. Roy took up the present case for decision, but he considered the production of the stolen conveyor belt in Court necessary and accordingly passed an order on 5th August, 1988. It may be noted here that a Criminal Case is pending (Asansol P.S. Case No. 16 of 14th August, 1985) over the present incident. The Police was directed to produce the stolen recovered conveyor belt. The same was produced by the Police in this Court. In presence of both the parties the conveyor belt was measured. The following are the particulars of the measurement:

- (i) Weight—30.700 Kg.
- (ii) Length—38 ft. 9 inches.
- (iii) Breadth—1ft. 2 inches to 1 ft. 4 inches.
- (iv) Thickness—6 mm.

Sri Murthy the learned Lawyer for the management has urged before me that the Court has no right to consider the data found in the measurement before this Court. But I have already stated that the Court has inherent power to take evidence at any stage for proper adjudication of the case.

11. In the charge sheet it has been clearly stated that the length of the stolen conveyor belt was 42 ft. Sri A. B. Sarkar (not numbered when examined) has stated in his examination-in-chief that the belt was measured and found that it was 42 ft. in length. The weight and thickness were not measured by the management. But from the statement of Sri A. B. Sarkar we find that it was 1-1/2 ft. in width (answer to Question No. 2 in cross-examination). PW-2 Chandradeo has also stated that the belt was measured and found to be 42 ft. in length and 1-1/2 ft. in width. So we find that the length and breadth of the conveyor belt produced by Police before this Court do not tally with the description of the

conveyor belt given by the prosecution witnesses. Sri Murthy has urged before me that the prosecution witnesses gave the measurement of the conveyor belt by guess, so the Court must ignore the same. But in view of the statement made by Sri A. B. Sarkar the Ex. Engineer and PW-2 Chandradeo, I am unable to look eye to eye with him as they have clearly stated that the belt was measured.

So considering this aspect of the case, I find that the management has hopelessly failed to substantiate the charge that a 42 ft. long conveyor belt was stolen by the concerned workman.

12. Jamuna PW-1 and Chandradeo PW-2 are the Security Personnel. They claim that they were on patrol duty and they apprehended the workman with the stolen belt. The incident took place at an unearthly hours. So we are also to consider the conduct of the thief. It will be against the prudence to accept that a thief will go on talking with the security guards without making an attempt to flee away. So we are to consider the statements of these two witnesses on this point. Jamuna has stated the following:

"AFI KON HAI. RUKO TO. He replied DEKTA NAHI KON HAI. I again asked him KAHA LE JA RAHA HAI. He again replied BJKRI KARNE LE JA RAHA HAI."

PW-2 Chandradeo Nunia has made the following statement on this point.

"BELT KAHA LEKE JA RAHA HAI. He replied GHAR LEKE JA RAHA HAI. He further replied HAM ESI TARAHA GHAR LEKE JATE HAI."

The statements of these two witnesses differ on material points. So it is very difficult to believe their statement on this point. In cross-examination Jamuna PW-1 has stated that after the talk the workman alone carried the belt to office. But the statement of Parsuram, Security guard PW-6 is otherwise. He has stated that it was being carried by more than one person. His statement on this point is in his cross-examination which reads as follows:

"It was being carried by you people with the help of a bamboo."

13. So considering the entire evidence on record and the facts and circumstances, I find that the best evidence was withheld by the management and the same was not produced in the domestic enquiry and for that the learned Enquiry Officer could not come to proper finding in this case. I also find that the evidence on record are not sufficient to prove that the concerned workman committed the theft as alleged. After full appraisal of the evidence, I find that the finding of the learned Enquiry Officer is illegal, unjustified and wrong. Accordingly I find that the dismissal order passed in this case is illegal and unjustified.

14. I find that the action of the management of Dhemo-main Colliery of M/s F.C. Ltd., in dismissing Sri Kanhai Dutta, Fitter with effect from 8th November, 1985 was not justified.

15. In the result the concerned workman Sri Kanhai Dutta shall be reinstated in his service with immediate effect. Sri Kanhai Dutta shall be paid by the management the full back wages from 8th November, 1985 till the date of reinstatement.

N. K. SAHA, Presiding Officer

[No. L-24012(114)/87-D.IV.B/IR (C-II)]

का.अ. 889 :- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचन में, केन्द्रीय सरकार व वेस्टर्न कोल-फ़िल्ड्स लि., डिप्टी सी.एम.एस. वेस्टर्न स्टोर सोहागपुर के प्रबन्धक से संबंधित विवादों और उनके कर्मचारियों के बीच, अनुसूचन में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट की प्रकाशित करती है, जो केन्द्रीय सरकार की 14-3-90 की प्राप्त हुआ था।

S.O. 889.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employees in relation to the management of Western Coalfields Ltd. through Dy. CMS Central Store (Sohagpur Area) and their workmen, which was received by the Central Government on 14-3-90.

ANNEXURE

BEFORE SHRI V. N. SHUKLA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, JABALPUR (M.P.)

Case No. CGIT/LC(R)(24)/1985

PARTIES :

Employers in relation to the management of Western Coalfields Limited, Post Office Rungta Colliery, District Shahdol (M.P.) and their workman Shri Dinesh Kumar Gupta, Driver, represented through the M.P. Koyala Khadan Mazdoor Panchayat Sohagpur Area, W.C.L. Post Office Dhanpuri, District Shahdol (M.P.).

APPEARANCES :

For Union—Shri D. L. Agarwal.

For Management—Shri R. Menon, Advocate.

INDUSTRY : Coal Mining DISTRICT : Shahdol (M.P.)

AWARD

Dated March, 2nd 1990

By Notification No. L-22012(180)/83-D.III.B/D.V. dated 26th March, 1985 the Central Government, Ministry of Labour, referred the following dispute to this Tribunal, for adjudication:—

"Whether the action of the management of Western Coalfields Limited through Dy. C.M.S. Central Store, Dhanpur, Sohagpur area in dismissing Shri Dinesh Kumar Gupta Driver during the pendency of conciliation proceedings is justified? If not, what relief the workman is entitled to?"

2. Undisputed facts of the case are that Shri Dinesh Kumar Gupta, Driver, was serving with the management of Western Coalfields Limited. Conciliation proceedings were field in regard to the misconduct of the workman. During the conciliation proceedings before the Asstt. Labour Commissioner (C) Shahdol the workman was charge-sheeted, enquiry was held and was dismissed from service for his misconduct.

3. The case of the workman in brief is that the workman Shri D. K. Gupta had filed an I.D. with the Asstt. Labour Commissioner (C) Shahdol on 8-10-1982. Conciliation proceedings commenced on 15-12-1982 and the case was fixed for production of records by the management. On 26-5-1984 the workman was charge-sheeted for major misconduct which were duly refuted by the workman. Management neither considered the contention of the workman nor allowed him to present his case in a fair manner. Notwithstanding the fact that the workman's case was pending before the Asstt. Labour Commissioner (C) it dismissed the workman vide its order No. Dy. CME : PF/1249 dated 27-8-1983. The workman filed a complaint on 19-9-1983 against the contravention of proviso to Sec. 33(2) of the I.D. Act but to no effect.

4. The dismissal of Shri D. K. Gupta during the pendency of conciliation proceedings without first complying with the mandatory requirements contained in the proviso to Sec. 33(2)(b) of the I.D. Act was vitiated and as such was infructuous. The management while dismissing Shri D. K. Gupta have taken recourse of the provisions of the

Certified Standing Orders of the erstwhile Rewa Coalfields Ltd. a Company then operating in the private sector and for want of suitable amendment for enforcing them in Western Coalfields Limited, the order based on the Standing Orders is infructuous and void ab initio. That apart, the Model Standing Orders provided only one punishment. The workman Shri Gupta, was dealt with dual punishments viz. suspension and dismissal. He was not accorded fair and impartial opportunity to defend his case in the course of enquiry into the charge-sheet. The order of dismissal was signed and issued by the Dy. CME/Staff Officer (M) Sohanpur while they should have obtained the approval of the Owner, Chief Mining Engineer or Agent of the Company before imposing the penalty of punishment. For this reason also the order is bad being beyond the scope of the Dy. CME/Staff Officer (M). The workman is, therefore, liable to be reinstated with full back wages and all consequential benefits.

5. According to the management, on 26-5-1983 the report was made by Shri O. D. Tyagi, Engineer, Regional Workshop, Burhar, alleging that about 12.10 p.m. on the same date Shri D. K. Gupta, Driver, Central Store, Burhar attacked Shri Tyagi and assaulted and abused him. On the basis of this complaint a charge-sheet dated 26-5-1983 was issued to Shri D. K. Gupta. Shri Gupta submitted his reply on 28-5-1983. Shri V. K. Tripathi, Area Training Officer, was appointed as Enquiry Officer and Shri R. V. Khodivar was appointed as the management representative. The Enquiry Officer commenced the enquiry on 8-6-1983. During the enquiry Shri Gupta took the assistance of Shri Mustaf Ali as his co-worker. On 8-6-1983 the entire proceedings of the enquiry were explained to the workman concerned and the charges were also explained to him which he denied. The management thereafter examined four witnesses. All the witnesses were examined in the presence of the workman and they were effectively cross-examined by the workman and his co-worker. After the evidence of the management was closed the workman was given an opportunity to give evidence in his defence. The workman examined Shri Mohan Lal Vishwakarma and also gave his statement. The Enquiry Officer thereafter gave his findings to the effect that charges proved against him. On the basis of the said finding punishment of dismissal from service was imposed on the workman concerned. Thus all the reasonable opportunity was given to him. The seriousness of the misconduct naturally resulted in the punishment of dismissal. The enquiry was valid. If the Court comes to the conclusion that the enquiry was not held properly it is prepared to adduce evidence before the Court. Pendency of conciliation proceedings have nothing to do with the action taken against Shri D. K. Gupta. If at all it was a technical violation and the action of the management is fully justified. The workman is, therefore, not entitled to any relief whatsoever.

6. My predecessor vide its award dated 24-7-1986 held that because the said enquiry proceedings and dismissal of the workman was made during the pendency of the conciliation proceedings there has been a contravention of Sec. 33(2)(b) of the I.D. Act and therefore it set aside the order of dismissal with a direction that the workman be reinstated with full back wages and all ancillary relief.

7. The matter went up to the High Court and the M.P. High Court in its order dated 19-8-1987 in M.P. No. 3356/86 set aside the award passed by my predecessor relying on various Supreme Court judgements and directed this Court to decide on merits the order of dismissal of the employee concerned. Accordingly this case once again came before this Court for adjudication.

8. The following issues were framed by my learned predecessor and my findings are recorded against each of them—

ISSUES

1. Whether the domestic/departmental enquiry is proper and legal?
2. Whether the punishment awarded is proper and legal?

3. Whether the management is entitled to lead evidence before this Tribunal?
4. Whether the termination/action taken against the workman is justified on the facts of the case?
5. Relief and costs?
6. Whether the termination during the pendency of conciliation proceedings is justified or not?

In case this Court comes to the conclusion that the domestic enquiry was not proper and legal on Issue No. 1 the other issues shall not be answered except Issue No. 3 and after answering these issues only the finding should be given on the other issues after giving an opportunity to the management to prove its case before this Tribunal.

9. So far as additional Issue No. 6 is concerned that has already been answered by the M.P. High Court and it has been held that the termination during the pendency of conciliation proceedings is not unjustified. Hence it is not necessary for me to deal with this issue as well.

10. Issue No. 1.—Now coming to Issue No. 1, the workman has raised the following points to challenge the validity of the departmental enquiry :—

1. The dismissal was made during the conciliation proceedings (this point has already been decided against the workman).
2. The management while dismissing Shri D. K. Gupta has taken recourse to the provisions of Standing Orders of the erstwhile Rewa Coalfields Ltd. and for want of suitable amendment for enforcing them in W.C. Ltd. the dismissal order based on the standing orders is infructuous and void.
3. The Standing Orders provide only one punishment while the workman was given two punishments i.e. suspension and dismissal.
4. It was the Dy. CME/Staff Officer (M) who approved the findings of the Enquiry Officer and issued dismissal order which is not in accordance with law. The approval of the Owner, Chief Mining Engineer or the Agent of the Company should have been obtained before imposing punishment to dismissal.

11. I have gone through the entire enquiry proceedings and apparently the enquiry was held in accordance with the normal procedure, practice and principles of natural justice and fair opportunity was given to the workman during the departmental enquiry.

12. So far as the first point is concerned, it is vague inasmuch as in what manner the enquiry was not fair has not been shown and there is no specification of unfair handling of enquiry. No Standing Orders have been placed before me in accordance which the enquiry is said to have been conducted. The enquiry has been conducted in accordance with the normal rules of procedure and principles of natural justice. Thus it cannot be said that because the enquiry was held under the Standing Orders of the erstwhile Rewa Coalfields Ltd. which were not amended for enforcing them in W.C. Ltd. the enquiry is vitiated. I have already pointed out that the enquiry is held in accordance with the principles of natural justice and normal rules of procedure laid down for holding the enquiry. The management has given the detailed version of the facts as to how departmental enquiry was held against the delinquent workman. Thus on this account also enquiry cannot be held vitiated.

13. So far the question that only one punishment can be given, obviously suspension is not punishment. Then order of dismissal is punishment and as such the enquiry cannot be held vitiated on this count also.

14. Nothing has been shown to me as to whether the approval of the Owner, Chief Mining Engineer or Agent of the Company was to be obtained before imposing punishment.

ment of dismissal. There is nothing on record to show that the officer issuing the order of dismissal was not competent to pass the said order or he was not the appointing authority. It is not the case of the workman that the dismissal order could be passed by the CME/Staff Officer (M) only and the officer who issued order of dismissal was not competent to do so. As I have already pointed out above, according to the workman only the approval of the above referred authority was a prerequisite for issuing dismissal order and on this count the validity of the order has been challenged. But this fact has not been substantiated by producing the relevant rules or orders as the case may be. Procedure followed in D.E. has been well founded and the same finds confirmation in D.E. papers.

15. No other point was raised to challenge the validity of the departmental enquiry.

16. Now coming to the evidence on record, the management has examined Om Dutt Tyagi, G.S.N. Murthy and Mumtaz Khan who has proved the case of the management. The delinquent on his part has examined Mohan Lal Vishwakarma in support of his case. He has also admitted the presence of the delinquent at the relevant time. He also admitted that there was some exchange between the delinquent and Shri Tyagi. This witness has also admitted that he was at a distance and therefore he does not know the talks in detail, but he has seen one Shukla catching hold of D. K. Gupta, Shri Vishwakarma witness further says that he also went to the spot, caught hold of the delinquent and brought him back. Thus the defence witness himself admits that something had happened between the delinquent and Shri Tyagi and the delinquent was intervened and thereafter taken away from the spot. This fact also confirms the testimony of the witnesses for the management to the effect that the delinquent driver had beaten Shri Tyagi on the relevant date, time and place and nothing could be brought in their detailed cross-examination to challenge the truthfulness of their version.

17. Before passing the award, I must point out that the standard of proof and technicalities applied in criminal proceedings do not apply to the departmental enquiry with such vigour. Thus the enquiry is not only properly conducted, but the findings are well founded. It is true that the dismissing officer did not give the details of the evidence to come to the conclusion but this point has not been raised and it has not been said that the dismissing officer had not applied his mind.

18. So far the question of awarding of punishment is concerned, the misconduct is a grave one inasmuch as an officer of the rank of Engineer in the Regional Workshop (E & M) was beaten by the driver on 26-5-1983 at about 12.10 p.m. when he was going from Central Office to Regional Workshop at the workshop gate. If such types of misconduct are permitted in a public place during the office hours and particularly when the officer is on duty the administration cannot run properly. The order of punishment is, therefore, not only justifiable but proper. The workman is, therefore, not entitled to any relief and costs. My findings are, therefore, recorded as follows :

1. The domestic/departmental enquiry is proper and legal.
 2. The punishment awarded is proper and legal.
 3. The management is entitled to lead evidence before this Tribunal.
 4. Termination/action against the workman is justified on the facts of the case.
 5. Workman is not entitled to any relief.
 6. The termination during the pendency of conciliation proceedings is not unjustified.
19. My answer to the reference is, therefore, as follows:—

The action of the management of Western Coalfields Limited through Dy. C.M.S. Central Store, Dhan-

pur, Sohagpur area in dismissing Shri Dinesh Kumar Gupta Driver during the pendency of conciliation proceedings is justified. He is not entitled to any relief. No order as to costs.

V. N. SHUKLA, Presiding Officer
[No. L-22012(180)/83-D.III(B)/D.V/IR (C.II)]

नई दिल्ली, 22 मार्च, 1990

का.अ. 890:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) का धारा 17 के अनुसरण में, केन्द्रीय सरकार ने सैतर्ज ई.सी. लि. की बोन्जेमहारी कोलियरी के प्रबन्धन से संबद्ध नियोजकों और उनके कर्मचारों के बीच, घनुबन्ध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, आसनसोल के पंचद का प्रकाशित करता है, जो केन्द्रीय सरकार का 7-3-90 का प्राप्त हुआ था।

New Delhi, the 22nd March, 1990

S.O. 890.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure in the industrial dispute between the employers in relation to the management of Bonjemehari Colliery of M/s. E.C. Ltd. and their workmen, which was received by the Central Government on 7-3-90.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, ASANSOL

Reference No. 23/87

PRESENT :

Shri N. K. Saha, Presiding Officer.

PARTIES :

Employers in relation to the management of Bonjemehari Colliery of M/s. E.C. Ltd.

AND

Their Workman.

APPEARANCES :

For the Employers—Sri P. K. Das, Advocate.

For the Workman—Sri S. Chakravorty, General Secretary of CEMU Union.

INDUSTRY : Coal.

STATE : West Bengal.

Dated, the 28th February, 1990

AWARD

The Government of India in the Ministry of Labour in exercise of the powers conferred on them by Clause (d) of sub-section (1) and sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following dispute to this Tribunal for adjudication vide Ministry's Order No. L-19012(77)/86-D.IV(B), dated the 5th March, 1987.

SCHEDULE

“Whether the demand of the Union for payment of double wages for working on Sundays with one day's weekly rest in respect of Sri E. T. Paulose, Typist on the ground that he was getting double wages for working on Sundays till October, 1985 even after introduction of 7 days working in 1984 with staggered rest day without giving notice under Section 9A of the I.D. Act by the Management of

Bonjemehari Colliery of ECL is justified? If so, to what relief the workman concerned is entitled?"

2. Today (28-2-90) the union files a petition with the prayer for permission for withdrawal of the Reference with liberty to claim double wages for the period in other proceedings U/S 33C(2) of the Industrial Disputes Act, 1947. The representative of the union S. Chakravorty orally submits that he does not want to proceed with the case.

3. The question of withdrawal of the Reference does not arise as the matter has been referred to this Court by the Ministry of Labour for decision on the schedule of Reference. The dispute was raised by the union before the A.L.C. and ultimately it went to the Ministry and the Ministry referred the same to this Court for adjudication. Sri Chakravorty submits that there is a mistake in the Reference as the workman did not get the double wages for Sundays. This Court has no right to amend the order of Reference. Sri Chakravorty submits that he does not like to proceed with the case, but wants the liberty to bring a fresh proceeding u/s 33C(2) of the Industrial Disputes Act for the unpaid wages for some days. That is not a matter for consideration in this dispute. So he has every right to bring any action for such unpaid wages at any point of time if otherwise permissible in law.

4. In view of the circumstances a 'no dispute' award is passed as Sri Chakravorty does not want to proceed with the case. This order will not be a bar to bring any fresh proceeding u/s 33C(2) of the Industrial Disputes Act, 1947, if otherwise not barred by law.

This is my award.

N. K. SAHA, Presiding Officer
[No. L-19012(77)/86-D.IV (B)/IR (C.II)]

नई दिल्ली, 23 मार्च, 1990

का.आ. 891:—आयोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ब.म.स. सी.एल. चण्च/विक्टोरिया एरिया न. XII के प्रबन्धन में तबड़े नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निहित आयोगिक विवाद में केन्द्रीय सरकार आयोगिक अधिकरण, कलकत्ता के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार का 8-3-90 का प्राप्त हुआ था।

New Delhi, the 23rd March, 1990

S.O. 891.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure in the industrial dispute between the employers in relation to the management of Chanch/Victoria Area No. XII of M/s. B.C.C. Ltd. and their workmen, which was received by the Central Government on 8-3-90.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

Reference No. 24 of 1988

PARTIES:

Employers in relation to the management of Chanch/Victoria Area No. XII of M/s. B.C.C. Ltd.

AND

Their workmen.

PRESENT:

Mr. Justice Sukumar Chakravarty, Presiding Officer.

APPEARANCES:

On behalf of employer—Mr. S. Banerjee, Advocate.

On behalf of workman—Mr. S. Ganguly, Advocate.

STATE : West Bengal.

INDUSTRY : Coal.

AWARD

By Order No. L-19012(88)/86-D.IV(B) dated 5th March 1987, the Government of India, Ministry of Labour referred the following dispute to this Tribunal for adjudication :

"Whether the action of the Management of Chanch/Victoria Area No. XII of M/s. Bharat Coking Coal Ltd., P.O. Barakar, Distt. Burdwan in terminating the services of Sri Karim Mian, OCM Driver, Victoria West Colliery w.e.f. 16-3-1985 is justified? If not, to what relief the workman is entitled?"

2. When the case is called out today, Mr. S. Ganguly, Advocate appearing for the workmen files a petition stating therein that the Union is not interested to proceed with the present reference and has prayed for a "No Dispute Award". Mr. S. Banerjee, Advocate appearing on behalf of the employer has no objection in this regard.

3. On due consideration of the petition of the Union as well as the submission of the parties, I find no other alternative but to pass a "No Dispute Award" and accordingly a "No Dispute Award" is passed.

This is my Award.

Dated, Calcutta,

The 27th February, 1990.

SUKUMAR CHAKRAVARTY, Presiding Officer
[No. L-19012(88)/86-D.IV (B)/IR (C. II)]

का.श. 892:—आयोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ब.म.स. सी.एल. का.आ. 891 के प्रबन्धन में तबड़े नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निहित आयोगिक विवाद में केन्द्रीय सरकार आयोगिक अधिकरण आमतमोस के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार का 6-3-90 का प्राप्त हुआ था।

S.O. 892.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Govt. Industrial Tribunal, Asansol as shown in the Annexure in the industrial dispute between the employers in relation to the management of Lachipur Colliery of M/s. E.C. Ltd. and their workmen, which was received by the Central Government on 6-3-90.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, ASANSOL

Reference No. 48/88

PRESENT:

Shri N. K. Saha, Presiding Officer.

PARTIES:

Employers in relation to the management of Lachipur Colliery of M/s. Eastern Coalfields Ltd.

AND

Their workmen.

APPEARANCES:

For the Employers—Sri P. K. Das, Advocate.

For the Workman—Sri C. D. Dwevedi, Advocate.

INDUSTRY : Coal. STATE : West Bengal.

Dated, the 27th February, 1990

AWARD

The Government of India in the Ministry of Labour in exercise of the powers conferred on them by clause (d) of sub-section (1) and sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following dispute to this Tribunal for adjudication vide Ministry's Order No. L-24012(261)/87-D.IV(B) dated the 21st July, 1988.

SCHEDULE

"Whether the action of the Management of Lachipur Colliery of M/s. Eastern Coalfields Ltd., P.O. Kajoragram, Dist. Burdwan (WB) in dismissing Smt. Shakuntala Bouri, Wagon Loader, w.e.f. 18-4-1981 is justified? If not, to what relief is the concerned workman entitled?"

2. During the pendency of the case today (27-2-90) Sri C. D. Dwevedi, learned Advocate for the union filed a petition, signed by the Vice-President of the concerned union, submitting therein that the concerned union is no longer interested to pursue the instant matter. In the petition the union has also prayed for a no dispute award in this case. Sri P. K. Das Id. Advocate representing the management has no objection in this regard.

3. Upon consideration of the petition and the submission of the parties, this Tribunal has no other alternative but to pass a 'no dispute' award and accordingly a 'no dispute' award is passed.

This is my award.

N. K. SAHA, Presiding Officer

[No. L-24012(261)/87-D.IV (B)/IR (C. II)]

R. K. GUPTA, Desk Officer

नई दिल्ली, 13 मार्च, 1990

सा. अ. 893.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबन्धन के सम्बन्ध निराकरण और उनके कर्मचारियों के बीच, अनुबन्ध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण व थम न्यायालय जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12 मार्च, 1990 को प्राप्त हुआ था।

New Delhi, the 13th March, 1990

S.O. 893.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the following award of the Central Government Industrial Tribunal-cum-Labour Court Jabalpur (M.P.) as shown in the Annexure in relation to the management of State Bank of India and their workmen, which was received by the Central Government on 12-3-90.

ANNEXURE

BEFORE SHRI V. N. SHUKLA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (M.P.)

Case No. CGIT/LC(R)(171)/1989

PARTIES :

Employer in relation to the State Bank of India, Regional Office, Jabalpur (Baikunthpur Branch, Surguja) and their workmen, Shri Nagendra Pandey C/o Shri A. K. Sinha, State Bank of India, Post Ambikapur, District Surguja (M.P.).

APPEARANCES :

For Workman—Shri R. Menon, Advocate.

For Management—Shri S. G. Vaidya, Officer of Bank.

INDUSTRY : Banking DISTRICT : Surguja (M.P.)

AWARD

Dated : February, 26, 1990

By Notification No. L-12012/157/89-IR/B-3 dated 7th September, 1989 Central Government, Ministry of Labour, referred the following dispute to this Tribunal, for adjudication:

"Whether the action of the management of State Bank of India Regional Office, Jabalpur, in relation to their Baikunthpur Branch, District Surguja in terminating the services of their workman Shri Nagendra Pandey, w.e.f. 31-12-1985, and not considering him for further employment under Section 25H of the I.D. Act is legal and justified? If not, to what relief the concerned workman is entitled to?"

2. On receipt of the reference order parties were noticed to file their respective statement of claim. In response to the notice workman filed statement of claim and management sought time to file the statement of claim. On 2-2-1990 parties filed the settlement and both the parties verified the same today i.e. on 26-2-1990.

3. In short the case of the workman was that from 15-11-83 to 31-12-1985 he was in continuous employment i.e. more than one year as defined under Sec. 25-B of the I.D. Act. His services have been terminated with effect from 31st December, 1985 without complying with the provisions of Sec. 2(oo), Sec. 25F and 25-N of the I.D. Act. Therefore his termination is illegal, void ab initio, nonest in the eyes of law. He is, therefore, entitled to be reinstated in service with full back wages and all other consequential benefits.

4. Management did not file their respective statement of claim but have come to a settlement, the terms of which are as under:—

1. That at the request of Party No. 1, management of State Bank of India is agreed to appoint Shri Nagendra Pandey, after completion of necessary formalities, as Messenger-cum-Farrash-cum-Water Man in the Bank, as per Bank's laid down instructions.

2. In consideration of the management agreeing to appoint, Shri Nagendra Pandey as Messenger-cum-Farrash-cum-Water Man, he willingly agreed not to claim any back wages and other benefits etc. as claimed in his statement of claim filed before the Hon'ble Court on 15-11-89. He agreed that the appointment shall be a fresh appointment in the Bank.

3. It is also agreed and declared that this settlement has been arrived at willingly with free will and without any coercion and undue influence whatsoever on the part of the workman.

The above settlement is duly signed by Shri Nagendra Pandey, workman concerned, and Shri H. S. L. Badwaik, Regional Manager of the Bank.

5. I have gone through the terms of settlement and I am of the opinion that the terms of settlement are fair, just and reasonable. I therefore record my award in terms of the settlement. No order as to costs.

V. N. SHUKLA, Presiding Officer

[No. L-12012/157/89-IR(BIII)]

S. C. SHARMA, Desk Officer

नई दिल्ली, 15 मार्च, 1990

सा. अ. 894.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कोचित रिफाइनरी लि. के प्रबन्धन के सम्बन्ध निराकरण और उनके कर्मचारियों के बीच, अनुबन्ध में निविष्ट औद्योगिक विवाद में थम न्यायालय, इलाहाबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7 मार्च, 1990 को प्राप्त हुआ था।

New Delhi, the 15th March, 1990

S.O. 894.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Labour Court, Ernakulam as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Cochin Refineries Ltd. and their workmen, which was received by the Central Govt. on the 7th March, 1990.

ANNEXURE

IN THE LABOUR COURT, ERNAKULAM

Saturday, the 24th day of February, 1990

PRESENT :

Shri R. Ravendran, B.A., B.L., Presiding Officer.

Industrial Dispute No. 16 of 1987(C)

BETWEEN

The executive Director, Cochin Refineries Limited, Post Bag No. 2, Ambalamugal-682302, Ernakulam District, Kerala.

AND

Their workman Shri E. A. Jose, Eluvathingal Padavan House, Kodannur P.O., Ammadaom, Trichur District, Kerala.

REPRESENTATIONS :—

M/s. Menon & Pai Advocates, Ernakulam—For Management.

Shri A. V. Xavier, Advocate, Ernakulam—For Workman.

AWARD

The industrial dispute between the above parties was referred to this Court for adjudication by the Government of India, Ministry of Labour, New Delhi as per Order No. L-30012/19/86-D.III(B) dated 6-1-1987. In the said order it was stated "Industrial Tribunal, Ernakulam" instead of "Labour Court, Ernakulam". This mistake was corrected by the Government as per Corrigendum No. L-300012/19/86-D.III(B) dated 2nd February 1987. The following is the issue referred for adjudication:—

"Is the Management of Cochin Refineries Limited, Ambalamugal, Distt. Ernakulam, Kerala justified in terminating the services of Sri. T. A. Jose, Ex-Typist-Clerk w.e.f. 31-10-1985? If not, what relief, Sri. E. A. Jose is entitled to?"

2. The workman has filed a claim statement stating as follows:—

The workman came out in flying colours from his final B.Com., examination with high First Class. He was doing his Master's Degree in St. Thomas College, Trichur with merit scholarship in the year 1982-83. While he was studying for 1st year M.Com., lured by an advertisement of the Management for requirement of management trainees, he applied for the same. After test, interview and medical check up he was selected and offered the position of commercial trainee in the Management Company. He completed the one year training from 5th April 1983 to 4th April 1984. In pursuance of workman's application he was appointed as a typist-clerk on 1-2-85. His appointment was on probation for six months. In selection list for appointment he had the 3rd rank. He completed his probation of six months successfully and thereafter he continued in regular service of the management company. In the performance book, which was maintained showing various items and quantum of work done by the workman, only on one occasion it has been recorded as "needs improvement". On all other occasions the appreciation recorded is "good". But on 31-10-1985 the service of the workman was terminated alleging that on evaluating his performance during the probationary period the management found that it was not satisfactory. The management was discriminating against certain workmen who were suspected to be not with them. He worked sincerely and did all work assigned to

him. There was no room for any complaint against the workman and he has not been called for explanation on any lapses on his part during the tenure of his service. The management was in an anxiety to appoint somebody of their liking and that was the precise reason for terminating the service of the workman. The workman had been put in more than 240 days continuous service while his service was terminated on 31-10-1985. So the termination of his service amounts to retrenchment. His service was terminated without observing the mandatory provisions under Sec. 25-F of the I. D. Act. The termination of service is not at the end of probation period or in terms of contract of service. So the termination of service of the workman is to be set aside and he is entitled to get reinstated in service with backwages and continuity of service.

3. The Management has filed a written statement contending as follows:—

Shri E. A. Jose was appointed as Typist-Clerk on 1-2-1985 on probation for a period of 6 months. The appointment was subject to all company policies and regulations. His performance during the probation period was not satisfactory. Hence on conclusion of his probationary period his probation was extended by another period of 3 months from 1-8-1985. Even during the extended period of probation his performance was not satisfactory and therefore his probationary service was terminated with effect from 31st October, 1985. It was done in accordance with the service conditions. The Management did not advertise for 'Management Trainees'. The Management advertised for 'Commercial Trainee'. The letter of appointment dated 22-3-1983 specifically stated that he was appointed as Commercial Trainee. He was a trainee upto 4-4-1984. The statement that he completed his probation of 6 months as Typist-Clerk successfully and therefore he continued in regular service of the Company is incorrect and denied. Unless he is confirmed in writing he will continue on probation. In fact the period of probation was extended by letter dated 31-7-85. All the confirmed workmen of the Company had gone on a prolonged strike from 11-5-85 to 13-8-85 and the striking workmen did not allow any confirmed workmen to enter the factory. Shri E. A. Jose being a probationer had been attending duty during the strike period. As he was showing lack of interest and was lethargic in his work, his probationary period was extended. Even during his extended period of probation he showed no improvement. This was recorded in the probation review and employee appraisal form. Since overall performance of the workman was not satisfactory, he was not confirmed. His services were not terminated for accommodating anybody else. His total service was only for a period of 9 months i.e. from 1-2-85 to 31-10-85. His termination from service was in accordance with the contract of service. Therefore he is not entitled to reinstatement with or without backwages or to any other relief.

4. The workman has filed a reply statement reiterating his claims and allegations in the claim statement and refuting the contentions in the written statement filed by the Management.

5. The points that arise for consideration are whether the termination of the workman Sri E. A. Jose is justified and whether the termination of service of Sri. E. A. Jose amounts to retrenchment.

6. For the Management MWs. 1 to 3 were examined and Exts. M1 to M21 were marked. For the workman MW1 was examined and Exts. W1 to W9 were marked.

7. In the response to an advertisement in the Mathrubhoomi daily dated 22-11-1982 the workman Sri E. A. Jose, who was doing his Master's Degree (M.Com.) in the year 1982-83, applied for the post of a Commercial Trainee in the Management Company as evidenced by Ext. M16. After the written test, type-writing test, interview and medical check up, he was selected for the post he applied for and he

was allowed to join duty on 5-4-1983 as per Ext. M2 order on the following terms and conditions :—

- (i) The training will be for a period of one year from the date of joining.
- (ii) During the period of training, he will be eligible for a stipend of Rs. 400 p.m.
- (iii) The first six months of training will be treated as probation and the Company reserves the right to terminate the training during this period without assigning any reason therefor. The training may after this period be terminated on one month's notice on either side.
- (iv) He shall conduct himself as a trainee and not as an employee of the Company and shall abide by all rules and regulations of the Company as specified in the Standing Orders of the Company.
- (v) He shall not hold the Company for any injury caused to him during the course of the training.
- (vi) There shall be no obligation on either side to offer or accept employment under the Company on completion of training.
- (vii) He will be eligible for leave and holidays benefits as applicable to workmen of the Company.

The workman completed the one year training including six months probation successfully on 4-4-1984. In the meanwhile the workman had applied for the post of Typist-Clerk in the management Company on 3-4-1984 as is evidenced by Ext. M17. It can be seen from Ext. M17 that the workman requested the Management to consider him for the post of Typist-Clerk when vacancy arises. He has also applied for extension of training period for further period as is evidenced by Ext. M18. But his period of training was over by 4-4-1984 without any extension of time. Thereafter he was appointed as Typist-clerk on 7-2-1985 as per Ext. M-4 which would go to show that he was appointed as per his application and the interview he had with the Management on 29-3-1984. He was appointed as Typist-Clerk in the pay scale of Rs. 460-24-652-30-900. Besides the basic pay he was also eligible for the following allowances:—

Dearness Allowance—Rs. 503 p.m. (variable according to fluctuations of CPI Simla Series) plus Fixed D.A. at Rs. 50 p.m.

House Rent Assistance—Upto 15% of basic pay, in excess of 10% to be borne by the employee.

City Compensatory Allowance—3-1/2 of basic pay subject to the condition that CCA does not exceed Rs. 10 p.m. and that basic pay plus CCA do not exceed Rs. 759 p.m.

Special Allowance—Rs. 400 per annum subject to Company rules.

It is further stated in Ext. M4 that he will be on probation for six months, during which period his service is terminable without notice or pay in lieu thereof, without assigning any reason therefore and after confirmation his service is terminable by giving 30 days notice or one month's salary in lieu thereof. It is also stated in Ext. M4 that in case he desires to leave the services of the Company, he may do so by giving the Company one month's notice in writing and his employment is subject to all Company policies and regulations as well as his participation in any benefit scheme as the Company may require. While he was on probation on the basis of Ext. M4 order his probation was extended by Ext. M11 and the extension of probation was for three months from 1st August 1985. In Ext. M11 it is stated as follows :—

"On evaluating your job performance during the past six months of your probationary period, it is found not possible to confirm you in service. This is therefore, to inform you that your probation has been extended for a further period of 3 months from 1st August, 1985 during which period your services can be terminated without notice. We hope that you will utilise the extended probationary period to come up to our standard and qualify for confirmation".

8. During the probationary period and the extended probationary period of the workman, according to the Management, his service was not satisfactory and therefore he was not confirmed in service. Ext. M5 is the certified Standing Orders of the Company. "Probationer" is defined in Clause 3-2(b) of Standing Orders which reads as follows :—

"Probationer means a workman who is provisionally employed in a permanent post and who has not been confirmed."

In Clause 4-1- of Ext. M5 Standing Orders it has been specifically stated that "Normally, the period of probation shall be six months from the date of reporting for duty. Confirmation on satisfactory completion of probation shall be in writing and in the absence of such written confirmation, it shall be deemed that the period of probation is continued for a further period not exceeding six months. During the period of probation, the Company may at any time, terminate the services of a workman without any notice or pay in lieu of notice and without assigning any reason whatsoever." During the first period of six months of probation the service of Sri Jose was not satisfactory. Ext. M6 is the probation review. The relevant portion in Ext. M6 is extracted below :—

Attitude to work supervision and Company rules	Application to work and initiative poor.
Job knowledge and job performance	He not shown interest to learn job.
Any current problem	Spends considerable time in chit chatting and being away from workspot.
Overall assessment	Poor.
Issues	Findings

On 23-7-1985 his immediate Supervisor Sri. V. J. Ponmudi has assessed his performance as follows :—

"Lacks initiative and job interest. Output is very poor as Typist/Clerk and overall assessment is below average"

With regard to the strong point, it was stated that he was obedient. But with regard to weak points, it was stated that he lacks interest in work, poor output, lethargy and lack of application. In Ext. M7 it is stated, "It was explained to the employee, his poor performance, lack of interest in work and negligible output. No reaction from employee". Ext. M7 contains the signature of his immediate Supervisor Sri V. J. Ponmudi. Another Supervisor Sri P. C. Nair also in Appraisal Form on 28-4-1985 assessed him as follows :—

"Output poor. Interest in work is not shown. Application nil. Overall assessment was below average."

This assessment can be seen from Ext. M13. After these assessments the appraisal form is signed by the Departmental head and reaches back to the Personnel Department. Thereafter it was signed by the Deputy General Manager Personnel and Administration. The recommendation for extending probation upto 31-10-1985 was signed by the Executive Director also who is the final authority. In view of this review made by the Superiors of the workman, it was decided to extend his probation upto 31-10-1985. During that period there was strike in the Company's factory from 10-5-1985 to 15-8-1985. The employees were asked to join duty after strike only on 18th August, 1985. Therefore Ext. M11, order extending the period of probation for a further three months, was typed only after 18th August, 1985 and it was served on Sri E. A. Jose, by the departmental head Sri Vijayan directly after the strike was over. Again, a probationary appraisal was conducted. A second probation review was initiated from the Personnel department on 3-10-1985. In Exts M14 and M8 Appraisal Forms, the immediate Supervisors of Sri. E. A. Jose, viz. Sri. V. J. Ponmudi and C. K. Balasubramaniam gave their assessment as "poor and has not shown much improvement despite much counselling". According to Sri V. J. Ponmudi the overall assessment is below average. The Overall assessment of the departmental head Sri Vijayan was "below average. Not suitable for confirmation". Sri Vijayan was examined as MW1 and Sri Balasubramaniam was examined

as MW2. They would depose in support of the review made by them with respect to the performance of the workman. The views expressed by MWs 1 and 2 were approved by the Executive Director and accordingly the probation of the workman was not confirmed by order dated 31-10-1985 as is evidenced by Ext. M10. In Ext. M10 it is stated:

"On evaluating your performance during the probationary period, we find that it is not satisfactory. Your services are, therefore, terminated effective October 31, 1985 (PM)".

9. The learned counsel for the workman would argue that the workman has completed one year training including six months probation successfully on 4-4-1984 as Commercial Trainee and he was appointed subsequently as Typist-Clerk. But it is to be noted that the workman was selected as Commercial Trainee in pursuance to an advertisement in the Mathrahhooni Daily dated 22-11-1982 on the basis of an application sent by the workman as is evidenced by Ext. M16. He was selected as Commercial Trainee as per the terms contained in Ext. M2. After completion of the period of training he has applied for extension of training also as is evidenced by Ext. M18 on 3-4-1984. But his training was terminated on 4-4-84. In the meanwhile the workman applied for the post of Typist-Clerk on 3-4-1984 as is evidence by Et. M17 and his request was no consider him for the post of typist-clerk when vacancy arise. In compliance with Ext. M-17 he was appointed as Typist Clerk after conducting necessary interviews and test on the terms and conditions contained in Ext. M-4 order dated 18-1-1985. From the facts narrated above it can be seen that the appointments of the workman as Commercial Trainee and Typist-Clerk are two independent and separate selections. So the period under which he has worked as Commercial Trainee cannot be included in the period in which he has worked as Typist-Clerk on probation.

10. The learned counsel for the workman would further argue that after the training period rank list was prepared by the Management to absorb the four trainees after conducting interviews. At the time of interview apart from the trainees, Shri Sreekumar and Shri Vijayan also were interviewed. According to the Management, M/s. Sreekumar and Vijay on were two temporary Typist-Clerks working in the Company. Sreekumar was working in the Company as a temporary employee even before Sri Jose was taken as a trainee. Shri P. Krishnakumar was assigned rank No. 5 in the list. The learned counsel for the Management would argue that at the time of preparation of rank list, there was a Supreme Court decision in *State Bank of India v. Sundaramani's*, whereunder temporary employees who had completed 240 days will get the right to continue in employment and Sri Krishnakumar had by then completed 240 days of work in the Company and therefore in view of the judgement of the Supreme Court his services could not be terminated. Hence Sri Krishnakumar was directed to be appointed and six others were appointed respectively according to their ranks in the rank list. Sri Vijayakumar was not selected in that interview. He had not completed 240 days of service. In the latter batch, he was selected as Commercial Trainee. The workman concerned was assigned rank No. 3. He was appointed after the appointment of Sri Krishnakumar in the circumstances stated above. But it is pertinent to note that the propriety and legality of the appointment of the workman as Typist-Clerk is not the issue to be adjudicated in this case and the workman has also not raised by dispute with respect to his appointment as Typist-Clerk. The question to be considered in this reference is whether the termination of service of the workman is justifiable or not. Therefore I hold that the propriety and legality of the appointment of the workman as Typist-Clerk need not be considered in his proceedings.

11. Then the question to be considered is whether the termination of service of the workman is justified. The evidence of MWs-1 to 3 would go to show that the overall assessment of the workman's work as per the assessment made by them during the probation period was below average. So also the assessment made by the Departmental Head should be taken into account. No personal vendetta against the Departmental Head is alleged by Sri Jose, the workman and there is no malafide or victimisation also. So also the subjective satisfaction of the Departmental Head cannot be

questioned regard the nature of service of the workman during the period of probation. It is also to be noted that when the workman had done the allotted work, he was given the remark "good" on two days. But the overall assessment made by all his superiors would go to show that he was below average. The learned counsel for the workman would argue that Ext. M-11 order by which the probation was extended for three months more, was not served on the workman. Sri Balasubramaniam, the Supervisor, examined as MW-2 has specifically stated that Ext. M-11 was served on Sri Jose. But acknowledgement was not taken from the workman as immediately after the strike period everybody was busy and it was served immediately after the strike was over just when the striking workers joined duty. MW-1, the Departmental Head, also stated that he himself had directly served Ext. M-11 order on the workman in the presence of the Supervisor after the strike was over and acknowledgement was not taken. There is no reason to disbelieve the version of MWs-1 and 2 with respect to the service of Ext. M-11 on the workman. Believing the testimony of these witnesses I hold that Ext. M11 was served on the workman. It is also pertinent to note that even if Ext. M-11 was not served, in view of the specific provision in Ext. M-5 Standing Orders that the probation will continue till it is confirmed in writing and the Management has got a right to extend the period of probation for a further period not exceeding six months, it cannot be held that his probation period is over and he is confirmed in service.

12. The learned counsel for the workman would further argue that the Management has not afforded workman sufficient opportunity to clarify his position when they made adverse remarks in the performance review and the review made by his superiors involves stigma on his official life so that he should have been given opportunity of being heard. In support of his argument the learned counsel has relied on the decision of the Hon'ble Kerala High Court in *Asst. General Manager, United India Insurance Company v. B. Sivadas and others* (S.A. No. 433 of 1983-B-unreported). It is held in this decision as follows:—

The termination for the reasons mentioned in paragraph 13 of Ext. A-57 certainly involves stigma and adverse consequence to the first respondent. In those circumstances it was incumbent on the part of the Company to have given first respondent some opportunity to clear himself, failure to do so involved clear violation of the principles of natural justice. It was clearly an arbitrary action. If clause 13 is to be understood as conferring absolute power of termination, it has the vice of arbitrariness pointed out in *Central Inland Water Transport Corporation's case* (AIR 1986 SC 1571)

The learned counsel for the Management would argue that the termination order Ext. M-10 involves no stigma. The Departmental assessments of work are confidential report and they are not punitive orders. So the termination of probation is not punitive in nature. Termination of probation was made because the service of the workman was not satisfactory. Therefore the decision relied on by the learned counsel for the workman is not applicable to the facts of this case.

13. On perusal of Ext. M-10 it can be seen that it does not involve stigma and the service of the workman was terminated for the reasons that his performance was unsatisfactory during the period of probation. Therefore, there is no violation of principles of natural justice in issuing Ext. M-10 termination order. So also it is held by the Hon'ble Supreme Court in *Dhanjibhai Ramjibhai v. State of Gujarat* (1985 II L.J. 521) that there is no right to be heard if the services were terminated on the ground of unsuitability. Hence I find that Ext. M-10 order of termination is not bad for the reason that it is violative of principles of natural justice as no opportunity was given to the workman before passing Ext. M-10 termination order.

14. Yet another contention raised by the workman is that he was not on probation on 31-10-1985 when Ext. M-10 order was issued. It is come out in evidence that the workman was appointed as Typist-Clerk on 1-2-1985 as per Ext. M-4. As per Ext. M-4 he will be on probation for six months during which his service is terminable without notice or pay in lieu thereof, without assigning any reason therefor.

Thereafter the probation was extended by Ext. M-11 for three months from 1st August, 1985. Therefore Ext. M-11 would prove the fact that the period of probation was extended and the workman continued to be a probationer. It is also to be noted that the service of probationer will not come to an end automatically at the expiry of the probation period. In this connection it is pertinent to mention Clause 4-1 of the Standing Orders Ext. M-5, which reads as follows :—

“Normally, the period of probation shall be six months from the date of reporting for duty. Confirmation on satisfactory completion of probation shall be in writing and in the absence of such written confirmation, it shall be deemed that the period of probation is continued for a further period not exceeding six months. During the period of probation, the Company may, at any time, terminate the services of a workman without any notice or pay in lieu of notice and without assigning any reason whatsoever.”

The learned counsel for the Management would argue relying on the decision in *K. C. Mangia v. C.W. Corp. (Del. H.C.)* reported in 1987-55-F.I.R. 510 that the workman seems to carry an impression that as a probationer he is entitled to be confirmed on the post as a matter of right. This is a misconceived notion. It was held in the above decision as follows :—

“In *Dhanjibhai Ramjibhai v. State of Gujarat (1985) 2 S.C.C. 5*, the Supreme Court has clearly held that the function of confirmation implies the exercise of judgment by the confirming authority on the overall suitability of the employees for permanent absorption in service. A Probationer's services can be terminated if on an overall appreciation of his record of service he is found unsuitable for being absorbed in the service. If the order of termination does not contain any stigma or refer to any charge of misconduct on the part of the probationer, there is no obligation to afford him an opportunity of being heard before terminating his services. There is no right in the probationer to be confirmed merely because he had completed the period of probation. The Supreme Court has further held that no distinction can be drawn between a probationer whose services are terminated on the expiry of the period of two years and a probationer who has completed the normal span of two years and whose services are terminated some time later after he has put in a further period of service.”

The learned counsel for the Management has further argued relying on the decision of the Calcutta High Court in *Calcutta State Transport Corporation v. G. K. Bhattacharya (1988-75-F.I.R. 17)* that it could not be contended that after the expiry of the probationer period the employee became permanent. The employer had the authority to extend the period of probation and had actually extended the probationary period in accordance with the service regulations. However, within the extended period of probation, the probationary period was terminated.

15. In the light of the decisions cited and in view of the provisions in the Standing Orders Ext. M-5, I have no hesitation to hold that the order of termination passed by the Management against the defendant on the ground of not satisfactory performance during the probation period, is justifiable and there is no reason whatsoever to set-aside the order of termination Ext. M-10.

16. Then the question to be considered is whether the termination will tantamount to retrenchment. “Retrenchment is defined in Section 2(oo) of the I. D. Act as follows :—

“‘Retrenchment’ means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include—

(a) voluntary retirement of the workman; or

(b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or

(bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contains a stipulation in that behalf; or

(c) termination of the service of a workman on the ground of continued ill-health.”

The learned counsel for the Management would argue that the above sub-section (bb) was inserted in Section 2(oo) of the I. D. Act, and it came into force on 18-8-1984. Termination of the service of a workman as a result of non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein would not amount to retrenchment. In view of the amended provision in the section, since probation was terminated, it would not be retrenchment, as his service was terminated as a result of nonrenewal of contract of employment. As certified Standing Orders form part of contract of employment, there is no violation of Section 25-F of the I. D. Act and the decisions rendered earlier interpreting the section before its amendment are not applicable to this case. There is no basis for the statement that the employer can unscrupulously prolong the period of probation. Under the Standing Orders of the Company there is a provision that six month's probation can be extended upto six months only. After that there is no contract of employment. Here the total period of probation was only 9 months and the extension of probation was not in the original post of Commercial Trainee but as Typist-Clerk.

17. The learned counsel for the workman would argue that the termination will amount to retrenchment. Section 2(oo) (bb) envisages a contract of employment for certain period and non-renewal of the contract of its expiry or such contract being terminated under a stipulation in that behalf contained in the contract of employment. Ext. W-2 is not a contract for employment for any specific period. So there is no question of its expiry and non-renewal of it. The stipulation for probation is not one envisaged under Section 2(oo) (bb).

18. It is to be noted that as per Ext. M-4, the workman shall be on probation for six months during which period his service is terminable without notice or pay in lieu thereof without assigning any reason therefor. As per Ext. M-5 Standing Orders also during the period of probation the Management is at liberty to terminate the services of the workman without any notice or pay in lieu of notice and without assigning any reason whatsoever. The Kerala High Court in the decision in *I. Samson Jayasingh v. Malayalam Plantations Ltd. (1988-73-F.I.R. 337)* held that even though termination of a probationer after 240 days was retrenchment before amendment of Section 2(oo) but after 18th August, 1984 it is not retrenchment. The Court held as follows :—

“Where the services of a probationer are terminated on the ground that he was found unsatisfactory and unsuitable before the inclusion of clause (bb) in Section 2(oo) of the Industrial Disputes Act, 1947, defining retrenchment, with effect from 18th August, 1984, it would amount to retrenchment as defined in the Act, and such termination, without complying with the provisions of the Act relating to retrenchment, would be illegal and the workman would be entitled to reinstatement with full back wages unless there were exceptional circumstances”.

The Karnataka High Court in the decision *Shankariah v. KSRTC (1986-ILLN 860)* held that,

“In view of sub-clause (bb) of C (oo) of Section 2 of the Industrial Disputes Act, 1947, which was introduced into the Act by Act 46 of 1984, which came into force from 19 August, 1984, the termination of services of a workman in terms of the stipula-

tion contained in the order of appointment does not amount to retrenchment.”

It is also held by the Karnataka High Court in the decision reported in 1985 LIC 1833 that discharge of a probationer in accordance with the service conditions is not retrenchment in view of Section 2(oo) of the I. D. Act.

19. In view of the above judicial pronouncements and in the light of sub-clause (bb) of Section 2(oo) of the Industrial Disputes Act, I hold that the termination of service of the workman Shri E. A. Jose on the ground of unsuitability and not satisfactory performance during the probation period, will not amount to retrenchment and therefore I find that the workman is not entitled to get the benefit of Section 25-F of the I. D. Act and the order of termination Ext. M-10 cannot be held as invalid on the ground of non-compliance of Section 25-F of the I. D. Act.

20. In these circumstances, on careful consideration of the entire evidence on record and the relevant principles of law, I find that the workman Shri E. A. Jose is not entitled to get any relief in this case. In the result an award is passed confirming the termination of services of Shri E. A. Jose and he is not entitled to any relief.

Ernakulam,

Dated : 24-2-1990.

R. RAVEENDRAN, Presiding Officer
[No. L-30012/19/86-D.III (B)]
V. K. SHARMA, Desk Officer

APPENDIX

Witness examined on the Management's side :

MW-1—Shri M. Vijayan.

MW-2—Shri Balasubramaniam C. K.

MW-3—Shri K. P. Philip.

Witness examined on the Workman's side :

WW-1—Shri E. A. Jose.

Exhibits marked on the Management's side :

Ext. M-1—File containing copies of certain documents regarding the appointment of the workman, produced by the Management.

Ext. M-2—Letter of appointment as Commercial Trainee from the Management to workman dated 22-3-1983.

Ext. M-3—Time sheet for the period ending 3-8-85 to 31-8-85.

Ext. M-4—Appointment order from Management to Workman dated 18-1-1985.

Ext. M-5—Standing Order of the Management.

Ext. M-6—Probation Review by Management dated 15-7-85.

Ext. M-7—Appraisal of workman dated 23-7-85.

Ext. M-8—Appraisal of workman dated 27-10-85.

Ext. M-9—Probation Review by Management dated 3-10-85.

Ext. M-10—Termination order dated 31-10-85.

Ext. M-11—A notice from Management to workman dated 31-7-85 extending probation.

Ext. M-12—Office order dated 13-3-86 from Central Water Commission.

Ext. M-13—Appraisal of workman dated 24-7-85.

Ext. M-14—Appraisal of workman dated 27-10-85.

Ext. M-15—Letter recommending candidates for future vacancies of Typist/Clerk, dated 17-12-85.

Ext. M-16—Application from workman to management dated 23-11-82.

Ext. M-17—A letter from workman to Management dated 3-4-84.

Ext. M-18—Another letter from workman to management dated 3-4-1984.

Ext. M-19—Attestation Form of Sri E. A. Jose dated 5-4-1983.

Ext. M-20—A letter from Management to Rev. Fr. Joseph Thekkirath, St. Anothny's Church, Ammadom P.O. dated 6-4-83.

Ext. M-21—Confirmation letter from Management to Sri K. Varghese Mathew dated 1-6-84.

Exhibits marked on the Workman's side :

Ext. W-1—A Certificate dated 4-4-84 issued to workman by Management.

Ext. W-2—Appointment order to workman from Management dated 18-1-85.

Ext. W-3—A certificate issued to workman by Principal, St. Thomas College, Trichur dated 5-11-85.

Ext. W-4—Termination order to workman from Management dated 31-10-85.

Ext. W-5—A memorandum issued to the workman from the Management dated 17-5-85.

Ext. W-6—A note book containing the details of work done by the workman from 2-9-85 to 30-10-85.

Ext. W-7—(3 Nos.) Pay slip of workman from August 1985 to October 1985.

Ext. W-8—A telegram receipt.

Ext. W-9—Appointment order issued to the workman as Commercial Trainee by Management dated 22-3-1983.

R. RAVEENDRAN, Presiding Officer

नई दिल्ली, 19 मार्च, 1990

क्र.आ. 895 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार वैस्टर्न रेलवे, राजकोट के प्रबन्धन के संबद्ध निर्वाहकों और उनके कर्मचारों के बीच अनुबन्ध में निम्नलिखित औद्योगिक विवाद में औद्योगिक अधिकरण अहमदाबाद के पंचपट, को प्रकाशित करती है, जो केन्द्रीय सरकार का 7 मार्च, 1990 को प्राप्त हुआ था।

New Delhi the 19th March, 1990

S.O. 895.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Ahmedabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Western Railway, Rajkot and their workmen, which was received by the Central Government on 7-3-90.

ANNEXURE

BEFORE SHRI N. A. CHAUHAN, PRESIDING OFFICER,
INDUSTRIAL TRIBUNAL, AHMEDABAD

Reference (ITC) No. 6 of 1989

ADJUDICATION
BETWEEN
Western Railway—Represented by,
Divisional Railway Manager,

Rajkot

—First Party.

AND

Its Workmen represented by,
Paschim Railway Karmachari Parishad,
C/o. B. K. Sharma, Station Master,
Himatnagar

—Second Party.

In the matter whether the DRM, Western Railway, Rajkot (G.M. W. Rly. Bombay) are justified to declare Shri M. M. Shukla Senior to Shri G. R. Ringola ? If not, what relief Shri Ringola is entitled to ? and whether the Divl. Railway Manager, Western Railway, Rajkot is justified in not granting seniority in the combined seniority of Head Quarter to S/Shri H. T. Dalwani, M. J. Abraham, Mr. R. Vyas and S. B. Nigam w.e.f. the date they are officiating as IOW in the grade of 425-700 (R) ? If not, to what relief they are entitled to ?

APPEARANCES :

Shri Satram Das—for the first party.

Shri B. K. Sharma—for the second party.

AWARD

This reference u/s. 10(1)(d) of the Industrial Disputes Act, 1947, (hereinafter to be referred as 'the Act') is referred by the Central Government vide its order dated 6-1-1989 bearing No. L-41011/21/86-D-2(B) to the Industrial Tribunal, Gujarat at Ahmedabad for adjudication between the parties referred earlier. The industrial dispute is as mentioned below :

1. "Whether the DRM, Western Railway, Rajkot (G.M. W. Rly. Bombay) are justified to declare Shri M. M. Shukla Senior to Shri G. R. Ringola ? If not, what relief Shri Ringola is entitled to ?
2. Whether the Divl. Railway Manager, Western Railway, Rajkot is justified in not granting seniority in the combined seniority of Head Quarter to S/Shri H. T. Dalwani, M. J. Abraham, M. R. Vyas and S. B. Nigam w.e.f. the date they are officiating as IOW in the grade of 425-700 (R) ? If not, to what relief they are entitled to ?"
2. Paschim Railway Karmachari Parishad (hereinafter to be referred as 'PRKP') has filed statement of claim at Ex. 6 and rejoinder at Exs. 8 & 9 and has contended that Shri G. R. Ringola, Tally Clerk in the grade of Rs. 105-135 was promoted to the cadre of Jr. Clerk in the grade of Rs. 110-180 prior to the direct recruitment of Shri M. M. Shukla as Clerk in the grade of Rs. 110-180 even then Shri Shukla is given promotion earlier to Shri Ringola in the higher grade of Rs. 425-700 from 1-1-84 and, therefore, injustice has been done to Shri Ringola and, therefore, Shri Ringola should be deemed to have been promoted as Head Clerk in the grade of Rs. 425-700 from 1-1-84 and he should be paid wages from 1-1-84.
3. PRKP filed statement of claim at Ex. 6 and rejoinder at Ex. 8 & 9 and also contended that S/Shree H. T. Dalwani, M. J. Abraham, M. R. Vyas and S. B. Nigam were promoted as Inspector of Works in the grade of Rs. 425-640 (R) since 1969, 1973, 1973 and 1979 respectively, but even then in the integrated list maintained at Head Quarter by Chief Engineer, Churchgate, Bombay, they have been given seniority on the basis that they were promoted to that post in 1984 and, therefore, they have been done injustice and, therefore, they are required to be granted the seniority in the cadre of I.O.W. from the date they are continuously working in this post and they be deemed to have been promoted to that higher grade from the date their juniors were promoted in the higher grade and they be paid difference of wages since then.
4. The Divisional Railway Manager (Estt.), Western Railway, Rajkot vide written statement at Ex. 7 stated that Shri Ringola was junior to Shri P. D. Purohit and Shri

Jivan K. as Tally Clerk and these two persons are placed below Shri Shukla in the cadre of Clerk as Shri Shukla had taken charge earlier in the post of Clerk than Shri Purohit, senior-most person amongst Tally Clerks—Shri Purohit, Jivan & G. R. Ringola and that action of the department is not only just but also as per Rule 302.

5. As regards the second demand, it is contended that Shri Dalwani, Abraham, M. R. Vyas and S. Nigam were promoted to the post of IOW on adhoc basis as they had not passed the departmental examination and these persons passed the examination in 1984 and, therefore they are deemed to have been promoted to that post of IOW in 1984 and not prior to that and, therefore, they are entitled to seniority in that cadre since 1984 and not prior to that even though they were officiating in that post prior to that.

6. Thus the first point that requires determination is whether Shri Ringola is entitled to seniority over Shri Shukla in the cadre of Clerk as contended by PRKP. In this connection, the admitted facts are that Ringola was a Tally Clerk. He was promoted as Clerk in the grade of Rs. 110-180 vide divisional Office Rajkot memorandum dated 26-2-63. The xerox copy of which is produced by list at Ex. 17. That memorandum shows that Shri Ringola was promoted from the post of Tally Clerk to the post of Clerk in the grade of Rs. 110-180 and was posted as Clerk under ARO, Mehsana against the existing vacancy and Public Works Inspector, Mehsana under whom he was working as Tally Clerk was directed to relieve him immediately without relief. It appears that he was not relieved immediately and as per the written statement at Ex. 7, he took over as Clerk on 1-4-63. It is also an admitted position that the appointment to the cadre of Clerk is also made by direct recruitment and Mr. Shukla was selected by the Railway Service Commission for appointment as Clerk and was appointed as Jr. Clerk w.e.f. 4-4-63. It also appears that Shri Purohit, Jivan K. who are Tally Clerks and senior to Ringola were also promoted to the post of Clerk during 1963 and Mr. Purohit took charge of Clerk on 15-4-1963, Jivan K. took charge on 9-3-1963 and Ringola as stated earlier took over the charge on 1-4-1963. It also appears that as Purohit took charge as Clerk on 15-4-63 and Shukla took charge of the post of Clerk on 4-4-1963, the Management of the Western Railway gave seniority to Shri Shukla over Shri Purohit. Via-a-vis Shri Purohit on the one side and Messrs Jivan K. & Ringola on the other side. Shri Purohit be in senior to these two persons, the Management decided to place both these persons below Shri Purohit in the cadre of Clerk and therefore, Shri Shukla was placed above Shri Purohit & Jivan K. and Ringola were placed below Purohit and thus Ringola was placed below Shukla.

7. It is contended by Shri Sharma for the PRKP that order of promotion of Ringola was issued in February, 1963 and he was required to be relieved immediately, but even then he was not relieved earlier and, therefore he could not take charge before 1-4-1963. His contention is that his order of promotion as Jr. Clerk was passed in February, 1963 and posting of Shukla was done in April, 1963 and therefore, Ringola gets seniority over direct recruit, Shri Shukla, in the cadre of Clerk. On the other hand, it has been contended by Shri Satram Das, PRO Western Railway, Rajkot that as per Rule 302, promotees and new appointees should get seniority on the basis of the date of joining and as Shri Shukla had taken over on 4-4-1963, prior to departmental promotee, Shri Purohit, Shri Shukla was entitled to seniority prior to Shri Purohit and as Jivan K and Ringola even though they had taken over as Clerk prior to Shri Shukla, could not get seniority over as they cannot get seniority over Shri Purohit who was senior to them. For this purpose, he relies upon Rule—302 which reads as under :—

502. Unless specifically stated otherwise, the seniority among the incumbents of a post in a post in a grade is governed by the date of appointment to the grade. The grant of pay higher than the initial pay should not, as a rule, confer on a railway servant seniority above those who are already appointed against regular posts. In cate-

gories of posts partially filled by direct recruitment and partially by promotion, criterion for determination of seniority should be the date of promotion in the case of a promotee and date of joining the working post in the case of direct recruit, subject to maintenance of inter-se seniority of promotees and direct recruits among themselves. When the dates of entry into a grade of promoted railway servants and direct recruits are the same, the dates of entry into a grade of promoted rail-promotees being senior to the first direct recruits maintaining inter-se seniority of each group."

Thus the rule clearly provides that in categories of posts which are partially filled by direct recruitment and partially by promotion, seniority would depend upon the date of promotion in the case of promotee and date of joining the post in the case of direct recruit. In the instant case, the date of promotion of Ringole was February, 1963. In that event the date of promotion of P. D. Purohit and Jivan K. would also be not later than February, 1963 as these two persons were senior to Ringole. Hence these persons were entitled to seniority not on the basis of their joining the post of Clerk, but from the date of promotion of that post. For determining the seniority amongst direct recruits, unless there is anything contrary, the date of joining should decide their seniority inter se. Hence the criteria applied by the Administration of Western Railway is determining seniority of Shri Shukla is against the provisions of Rule-302. Shri Shukla under no circumstances can get seniority over Shri Ringole. Shri Ringole was promoted to the post of Clerk in February, 1963. He also took over as Clerk on 1-4-1963. Shri Shukla's order of promotion was from 4-4-1963. He took over on 4-4-1963. Hence he cannot get seniority over Shri Ringole. It is clear that the administration of the Western Railway has adopted a wrong principle in determining the seniority of these four persons. They adopted the criteria of date of joining. As a matter of fact, inter se department promotees the date of promotion was the vital factor to be considered and not the date on which the promotee took charge of the promoted post. Such criteria is obvious because in case of promotee, it is very likely that one may not be relieved earlier and, therefore, it is not in his hand to take charge earlier. It is also quite possible that a promotee though junior in the cadre may get posting in that very town whereas his senior promotee earlier or simultaneously may get a posting at a distant place and, therefore, he may not be able to join as early as his junior. Hence in the case of promotee, the date of joining cannot determine the seniority. The date of promotion would determine the seniority, that is also what Rule-302 lays down. Hence the Divisional Manager, Western Railway has erred in not giving the seniority to Ringole over Shukla in the cadre of Clerk. As a matter of fact, they should have given seniority to Mr. Purohit and Jivan K. above Mr. Shukla and Ringole. It has been contended by Shri Satram Das that Purohit & Jivan K. have not challenged the question of seniority of Mr. Shukla and, therefore, Ringole cannot challenge the same. It is not possible to agree with Shri Satram Das on this point. The Union has been able to establish that Ringole was entitled to seniority over Shukla. It is also pertinent to note that Shri Ringole was promoted as Sr. Clerk w.e.f. 1-10-80 in which post he was officiating since 29-4-1980. Mr. Shukla was also promoted as Sr. Clerk from 1-10-80 and thereafter Mr. Shukla, Purohit & Jivan K. were promoted as Head Clerk in the grade of Rs. 425-700 from 1-1-1984 whereas Ringole was promoted to this post on 28-11-1985 as he was placed junior to Shukla in the cadre. Thus it is clear that Purohit & Jivan K. have not suffered any loss even though they are given seniority below Shukla in this cadre whereas Ringole has suffered and that is why Ringole has got this question agitated through his Union. It is conceded by Shri Satram Das that promotion to the post of Head Clerk is solely on the basis of seniority and if Ringole was placed above Shukla in the cadre of Clerk, he would have got promotion earlier than Shukla. Thus it is clear that Ringole has suffered because he is not placed above Shukla in this cadre and, therefore, the Union has taken up the case of Ringole only because Purohit and Jivan K. have not practically suffered any loss even though they are

placed below Shukla. Thus on consideration of facts which are not in dispute and from the arguments submitted by Mr. Sharma on behalf of the PRKP and Mr. Satram Das, PRO Western Railway it is clear that injustice has been done to Ringole when he is placed below Shukla in the cadre of Clerk. As he was given seniority below Shukla, he could not be promoted on 1-1-1984 as a Head Clerk and he had to wait upto 28-11-1985 and hence he is required to be reimbursed the loss that he has suffered and it also requires to be held that he should be deemed to have been promoted from 1-1-1984 and he is, therefore, entitled to all the benefits, namely, difference of wages, etc. on the basis that he is appointed as Head Clerk on 1-1-1984.

8. As regards second demand of the PRKP, the admitted facts are that Messrs H. T. Dalwani, M. J. Abraham, Mr. R. Vyas and S. B. Nigam were promoted to officiate as IOW in the grade of Rs. 425-640 (R) respectively during the year 1969, 1973, 1973 and 1979. The next promotion to these employees would be in the grade of Rs. 550-750 (R), Rs. 700-900 (R) and Rs. 840-1040 (R) according to the integrated seniority list maintained at Head Quarter Office at Bombay by Chief Engineer. The above referred persons were promoted as IOW in Rajkot Division as per the existing vacancies. These posts were required to be filled in by selection and for that purpose examination was required to be held. But in Rajkot Division, no examination was held till 1984. In 1984, initially these employees contended that as they were working in this post since long, they are not required to appear in the examination. But thereafter they appeared in the examination and they all passed out and their promotion from earlier date was regularised in 1984. Hence in the integrated seniority list maintained at the Head Quarter, Bombay, they were given seniority on the basis that they were promoted to this post in 1984. It appears that in other Divisions, examinations were held regularly and employees were promoted and, therefore, employees in other Divisions who were promoted to this post later than these employees were given seniority ahead of them. It is the contention of the PRKP that these four employees were not at all at fault because examination was required to be conducted by the department and even though the posts of promotion were available, the department did not hold the examination and, therefore, these four employees cannot be made to suffer for lethargy of the department to conduct the examination.

9. It is contended on behalf of the Railway Administration by Shri Satram Das, PRO that initially these employees had opposed and had even filed the writ petition before the High Court contending that they were not required to appear in the examination and, therefore, they cannot get seniority from the date they were officiating in the higher post. It is, inter alia, contended by Shri Satram Das that they can be deemed to have been promoted when they passed in the examination and, therefore, they are not entitled to seniority on the basis of the date since when they were officiating in the higher grade of IOW.

10. The admitted facts clearly go to show what Mr. Dalwani was promoted as IOW on adhoc basis and was officiating in this post since 1969. Shri Abraham and Shri Vyas were promoted on officiating in this post on adhoc basis since 1973 and Shri Nigam since 1979. As per the rules, the department was required to conduct the examination and the employee who has got through this examination could only be promoted to this post. Hence when the vacancy to this post arose, the Rajkot Division was required to conduct the examination. But Rajkot Division did not conduct any examination and promoted these employees on adhoc basis. It was in the year 1984 that the department conducted the examination and thereafter the department empanelled these employees in the cadre of IOW. As per the rule, which appears on page 243, promotion was required to be given against the vacancy of post from the candidates who have passed the examination, but in case where no empanelled employee (employees who have passed the examination) is available and it became inevitable to make local arrangement. The department permitted to make the said arrangement for a short period.

but that appointment cannot be made for more than three months. Hence when the vacancy arose, the department was expected to conduct the examination and to empanel the employees who are fit for promotion. The Rajkot Division failed to conduct the examination when vacancy arose in 1963, 1973 and 1979. These four employees continued to officiate as IOW beyond three years in the case of Mr. Nigam and ten years in the case of Mr. Vyas and Mr. Abraham and twelve years in the case of Dalwani. These employees cannot be blamed for non-empanelment earlier when the vacancy arose. Hence the department conducted examination and these employees had not appeared or had appeared and failed, then the question would be different. In the instant case, the department failed to conduct examination even though the vacancy had arisen. It is also pertinent to note that the department did not keep the post vacant, but promoted these employees on adhoc basis and they worked on this post for a number of years before the examination was conducted and they were empanelled. Shri Sharma relies on rule-321 in support of his contention that they are entitled to the seniority from the date since when they were officiating in the post of IOW. This rule reads as under :

“321. Relative seniority of employees in an intermediate grade belonging to different seniority units appearing for a selection/non-selection post in higher grade.

When a post (selection as well as non-selection) is filled by considering staff of different seniority units, the total length of continuous service in the same or equivalent grade held by the employees shall be the determining factor for assigning inter-seniority irrespective of the date of confirmation of an employee with less length of continuous service as compared to another unconfirmed employee with longer length of continuous service. This is subject to the proviso that only non-fortuitous service should be taken into account for this purpose.”

11. In view of this rule, even though these employees were regularised for promotion in 1984 only the seniority in the grade of Rs. 425-700 of IOW requires to be fixed with reference to the date from which they continuously officiated in the post of IOW in the scale of Rs. 425-700.

12. In support of his contention that officiating period cannot be considered, Shri Satram Das relied upon the decision given by the Central Administrative Tribunal, Ahmedabad in T. A. No. 727 of 1986 and 729 of 1986 and others on 27-7-1988. The copy of which is produced by list Ex. 18. In that case, some employees were promoted on adhoc basis in the post meant for direct recruit. They continued to work in the promoted post for long period of more than one to two years and thereafter when direct recruits were available they were reverted to their original post. These employees challenged the decision of the Railway Administration and contended that as they were officiating in the higher post for more year, they could not be reverted. Their contention was not accepted, inter alia holding that their promotion was on adhoc basis and, therefore, they cannot oppose their reversion when suitable candidates were available. It was further held that merely because they have officiated for long period, they do not get the right to that post. In the instant case, the point at issue is quite different. These employees are not reverted to the original post, but in the integrated cadre the seniority is sought to be fixed from the date the department preferred to empanel them. As per rule 321, when integrated seniority is to be maintained, the date since when an employee is officiating non-fortuitously is to be considered. This is what has been held by the Central Administrative Tribunal in the case of Girdharlal J. Dabhi & others Vs. Union of India in T. A. No. 1201 of 1986 on 23-6-1987. The copy of this judgment is produced by Shri Sharma vide list at Ex. 17. In that matter also, seven employees—Shri Girdharlal J. Dabhi and others were working as Electrical Chargemen in the scale of Rs. 425-700 (R) since 1971

and onwards. They were promoted on adhoc basis. They were also required to pass the written test. The written test was not held till 1974 in Rajkot Division whereas in other Divisions, such tests were held earlier and, therefore, the employees who appeared in this test and who were promoted in the scale of Rs. 425-700, after these seven employees were given seniority ahead of them because their name was empanelled earlier as they had passed the test earlier. Shri Girdharlal J. Dabhi challenged this action by filing a Civil Suit. The suit was transferred to the Central Administrative Tribunal and the Central Administrative Tribunal, relying upon rule 321, upheld their contention that they are entitled to seniority in the integrated cadre not from the date on which they were empanelled after the written test, but from the date since when they were officiating in this cadre. Thus, this decision is par materia similar to the facts before us. Hence as per the decision of the Central Administrative Tribunal as also as per the provision of 321, Mr. Dalwani, Abraham, Vyas and Nigam were entitled to the seniority in the integrated seniority list not from the date when they were empanelled but from the dates since they were officiating as IOW in Rajkot Division. I, therefore, accept the contention of Shri Sharma that the Railway Administration has done injustice to these four employees by not giving seniority in the integrated seniority list since the date of their appointment in the cadre of IOW. I, therefore, pass the following order :

ORDER

As regards demand No. 1, it is held that Shri G. R. Ringola is entitled to seniority over Shri M. M. Shukla and, therefore, he is deemed to have been promoted in the higher grade of Rs. 425-700 from 1-1-1984 and not from 28-11-1983. He is, therefore, entitled to difference of wages from 1-1-1984.

As regards demand No. 2, it is held that Messrs H. T. Dalwani, M. J. Abraham, M. R. Vyas and S. B. Nagim are entitled to seniority in the combined seniority maintained by the Head Quarter not on the basis of their empanelment on 1984, but on the basis of the date of their promotion in the cadre of IOW. The Railway Administration has given seniority to them since 1984 and hence the Railway Administration is directed to give them due seniority in combined seniority list and redress any loss suffered by them on account of such wrong seniority given to them.

The Railway Administration is directed to pay Rs. 200 to PRKP by way of cost of this reference.

SECRETARY

Ahmedabad, 13th February, 1990

N. A. CHAUHAN, Presiding Officer

[No. I-41011/21/86-D.II (B)]

का.अ. 896 :- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 की अनुसरण में केन्द्रीय सरकार दूरदर्शन केन्द्र अकोला के प्रबन्धन के सम्बन्ध में निम्नलिखित और उनके कर्मचारियों के बीच अनुबन्ध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पक्षों को प्रकाशित करती है, जो केन्द्रीय सरकार के 12 मार्च, 90 को प्राप्त हुआ था।

S.O. 896.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Doordarshan Kendra Akola and their workmen, which was received by the Central Government on 12-3-90.

ANNEXURE

BEFORE SHRI V. N. SHUKLA, PRESIDING
OFFICER, CENTRAL GOVERNMENT INDUS-
TRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR (M.P.)

Case No. CGIT/LC(R)(94)/1987

PARTIES :

Employers in relation to the management of
Doordarshan Kendra, Akola (M.S.) and
their workman, Shri Sudhakar Motiram
Bijew, Casual Driver, Vegetable Market,
Near Post Office, Amravati-444 601.

APPEARANCES :

For Workmen.—Shri V. K. Sule.

For Management.—Shri S. S. Gawai.

INDUSTRY :

Doordarshan Kendra, District : Akola (M.S.)
Amravati

AWARD

Dated the 26th February, 1990

This is a reference made by the Central Govern-
ment, Ministry of Labour for adjudication of the
following dispute, vide Notification No. L-42012/00/
80-D. II (B) dated 2-7-1987 :

“Whether the action of the management of
Doordarshan Kendra, Akola in terminating
the services of Shri Sudhakar Motiram
Bijew, Casual Driver at Doordarshan Ken-
dra, Amravati, w.e.f. 31-3-1985 is legal and
justified ? If not, to what relief is the work-
man entitled ?”

2. Undisputed facts of this case are that Sudhakar
Motiram Bijew was casual driver at Doordarshan
Kendra, Amravati. He was appointed on 26-8-1984
as casual labour. He was appointed as a driver with
effect from 2-9-1984 on daily wages. He worked
as a driver upto 31-3-1985. His services were ter-
minated orally with effect from 31-3-1985 without
giving any advance notice or notice pay. It is also
not disputed that one S. U. Takore was appointed
as driver on regular basis with effect from 1-4-1985.

3. The case of the workman in brief is that the
management has adopted unfair labour practice by
terminating his services. He had satisfactory record
to his credit upto the date of his termination. Thus
injustice has been done to him and he be reinstated
with immediate effect giving benefit of back wages
with effect from 1-4-1984 placing him against the
regular post as a motor driver with continuity in
service.

4. The management has denied that it is an ‘in-
dustry’. It has denied that S. M. Bijew was a work-
man. He worked only for 211 days. He was emp-
loyed on a gap arrangement. When the post of the
driver was to be filled, names of persons were called

from local employment exchange. The name of
Bijew was not sent by the Employment Exchange.
He did not possess the requisite qualification for the
appointment of a driver i.e. Middle School Standard.
Thus he was not qualified for the job. His services
have been rightly terminated and this Court has no
jurisdiction to try this case.

5. In rejoinder the workman stated that the man-
agement should have intimated the name of the
workman who was engaged as driver to the local
Employment Exchange on the basis of his experience.
He has also acquired the requisite educational quali-
fications for the post of motor driver i.e. he has
passed the middle school standard examination.

6. The workman has filed two documents Ex. W/1
and Ex. W/2 in support of his case. Ex. W/1 shows
that the workman was serving satisfactorily with the
management. Ex. W/2 are the photo copies of cer-
tain rules which are not certainly material in the
case.

7. Ex. M/1 to Ex. M/10 are various documents
proved by the management which I will discuss as
and when necessary. Documents of both the par-
ties have been admitted by each other.

8. So far the question of Doordarshan being in-
dustry is concerned, the management has relied on
Ex. M/7, according to which Dy. Director of Ad-
ministration for the Director General, Doordarshan
has expressed Doordarshan is not an industry and
the extract of the advice from the Ministry of Law,
Justice & Company Affairs finds place at the back
of Ex. M/7. The extract of the advice on record
appears to be based on the decision of Bangalore
Water Supply Vs. A Rajappa (AIR 1978 SC 548).
Let us, therefore, discuss the law laid down in the
said judgment to find out whether Doordarshan is
an ‘industry’ or not under Industrial Disputes Act.
The judgment is a long one and I shall deal with
the substantive part of the judgment. In substance
in the true sense of the industry it has been said that
sovereign function strictly understood that may alone
qualify for exemption, not the welfare activities or
economic adventure undertaking by the Government
or statutory bodies.

9. It has been observed in para 54 of the judg-
ment that “Absence of capital does not negative
‘industry’. May, even charitable services do not ne-
cessarily cease to be ‘industries’ definitionally although
popularly charity is not industry.” It has further
been observed in para 57 that “In short ‘trade’
embraces functions of local authorities, even profes-
sions, thus departing from popular notions. Another
facet of the controversy is next touched upon—i.e.
profit-making motive is not a sine qua non of ‘in-
dustry’, functionally or definitionally.”

10. It has further been observed in para 61 as
follows :—

“If the mutual relations, the method of employ-
ment and the process of co-operation in
the carrying out of the work bear close

resemblance to the organization, method, remuneration, relationship of employer and employees and the like, then it is industry, otherwise not. This is the kernel of the decision. An activity oriented, not motive based, analysis."

11. It has been added in para 63 of the said judgment as follows :—

"These arguments hold good for the Indian industrial statute, and so, Sec. 2(j) must receive comprehensive literal force, limited only by some cardinal criteria. One such criterion, in the monarchical vocabulary of English Jurisprudence, is Crown exemption, re-incarnating in a Republic as inalienable functions of constitutional government. No government, no order, no law, no rule of law, no industrial relations. So, core functions of the State are paramount and paramountcy is paramountcy. But this doctrinal exemption is not expansionist but strictly narrowed to necessitous functions. Isaacs and Rich JJ., dwell on this topic and, after quoting Lord Watson's test of inalienable functions of a Constitutional government, state :

"Here we have the discriemen of Crown exemption. If a municipality either (1897) 1 QB 64 at pp. 70-71 is legally empowered to perform and does perform any function whatever for the Crown, or (1897) 1 QB 64 at p. 71) is lawfully empowered to perform and does perform any function which constitutionally is inalienably a Crown function—as, for instance, the administration of justice—the municipality is in law presumed to represent the Crown, and the exemption applies. Otherwise, it is outside that exemption, and, if impliedly exempted at all, some other principle must be resorted to. The making and maintenance of streets in the municipality is not within either proposition".

12. In para 76 of the judgment it has been expressed as follows :—

"The material question is : What is the nature of the actual function assumed—Is it a service that the State could have left to private enterprise, and if so fulfilled, could such a dispute be industrial ?"

Thus the nature of actual function and of the pattern of organised activity is decisive. We will revert to this aspect a little later."

13. In para 74 of the judgment it has been expressed as follows :—

"Although we are not concerned in this case with those categories of employees who particularly come under departments charged with the responsibility for essential constitutional functions of government, it is

appropriate to state that if there are industrial units severable from the essential functions and possess an entity for their own it may be plausible to hold that the employees of those units are workmen and those undertakings are industries." (See also para 18 last part, para 23).

14. Para 87 of the judgment is as follows :—

"Two seminal guidelines of great moment flow from this decisions 1, the primary and predominant activity test; and 2, the integrated activity test. The concrete application of these two fold tests is illustrated in the very case. We may set out in the concise words of Subba Rao J., the sum up (at p. 684 of AIR) :

"The result of the discussion may be summarized thus : (1) The definition of 'industry' in the Act is very comprehensive. It is in two parts : one part defines it from the standpoint of the employer and the other from the standpoint of the employee. If an activity falls under either part of the definition, it will be an industry within the meaning of the Act, (2). The history or industrial disputes and the legislation recognizes the basic concept that the activity shall be an organized one and not that which pertains to private or personal employment, (3) The regal functions described as primary and inalienable functions of State though statutorily delegated to a corporation are necessarily excluded from the purview of the definition. Such regal functions shall be confined to legislative power, administration of law and judicial power. (4) If a service rendered by an individual or private person would be an industry, it would equally be an industry in the hands of a Corporation. (5) If a service rendered by a Corporation is an industry, the employees in the departments connected with that service, whether financial, administrative or executive, would be entitled to the benefits of the Act. (6) If a department of a municipality discharged many functions, some pertaining to industry as defined in the Act and other non-industrial activities, the predominant functions of the department shall be the criterion for the purpose of the Act."

15. From para 106 onwards it has been discussed as to whether professional are the workmen. Here, we are not dealing with a case of professionals. There can be an 'industry' where certain persons are not covered within the definition of workman as laid down in the case of Miss. A Sunderambal Vs. Govt. of Goa, Daman & Diu (AIR 1980 SC 1700). Then their Lordships have discussed in details about the research institutes, clubs, co-operatives etc. to find out whether they are industries. Ultimately in para 161 of the judgment the industry as defined in Sec. 2(j) has been explained referring to AIR 1953 SC 58 which has a wide import. Their Lordships have

also tried to narrow down the wide scope of the meaning of the industry in the judgment.

16. While dealing with the scope of the industry under Sec. 2(j) of the I. D. Act their Lordships of the Supreme Court in a case between the same parties in the same judgment reported at page 969, have observed in para 172 (at page 972) of the judgment as follows :—

“One of the exceptions carved out by the Court is in favour of activities undertaken by the Government in the exercise of its inalienable functions under the Constitution, call it regal, sovereign or by any other name. I see no justification for excepting these categories of public utility activities from the definition of ‘industry’. If it be true that one must have regard to the nature of the activity and not to who engages in it, it seems to me beside the point to enquire whether the activity is undertaken by the State, and further, if so, whether it is undertaken in fulfilment of the State’s constitutional obligations or in discharge of its constitutional functions.”

17. It has further been observed in the same para at page 973 as follows :—

“If the water supply and sewerage schemes or fire fighting establishments run by a Municipality can be industries, so ought to be the manufacture of coins and currency, arms and ammunition and the winning of oil and uranium. The fact that these latter kinds of activities are, or can only be, undertaken by the State does not furnish any answer to the question whether these activities are industries. When undertaken by a private individual they are industries. Therefore, when undertaken by the State, they are industries. The nature of the activity is the determining factor and that does not change according to who undertakes it. Items 8, 11, 12, 17 and 18 of the First Schedule read with section 2(n) (vi) of the Industrial Disputes Act render support to this view. These provisions which were described in *Hospital Mazdoor Sabha* (AIR 1960 SC 610) as ‘very significant’ at least show that, conceivably, a Defence Establishments, a Mint or a Security Press can be an industry even though these activities are, ought to be and can only be undertaken by the State in the discharge of its constitutional obligations or functions. The State does not trade when it prints a currency note or strikes a coin. And yet, considering the nature of the activity, it is engaged in an industry when it does so.”

18. It is immaterial to point out that in various countries Doordarshan is run by private sectors. It can be run by a private sector. Thus it is well covered within the meaning of industry as discussed

above. I, therefore, hold that Doordarshan is an ‘industry’.

19. That being so, it can be well stated that Bijew is a workman within the definition of Sec. 2(j) of the I.D. Act. I need not go into the details of this aspect of the case. Thus it is a dispute between a employer and workman of an industry and has been rightly referred by the Government to this Tribunal for adjudication. I hold that this Court has jurisdiction to answer the reference.

20. Now coming to the services of the workman, he was obviously a casual labour and he has not completed one year service as defined under Sec. 25B of the I. D. Act, Thus the provisions of Sec. 25F do not come into play and therefore neither it was necessary for the employer to give him a notice of retrenchment nor retrenchment compensation.

21. The workman himself has not disputed that the middle school certificate was necessary for the appointment in the post. He has also stated that he has passed the middle school examination after his service were terminated (See the submission of the workman dated 13-6-88, page 2).

22. It is true that the workman had a valid driving licence and a good record of service but as has been pointed out he was not fulfilling the requisite qualification for the appointment of a driver. In these circumstances, it cannot be said that merely because he was engaged as a casual worker as stop gap arrangement he becomes entitled to the said post or he should have been given preference while the regular appointment was made. Thus there is no violation of Sec. 25-H of the I. D. Act.

23. I, therefore, hold that the action of the management of Doordarshan Kendra, Akola, in terminating the services of the workman is legal and justified and the workman is not entitled to any relief. Merely because in some case Supreme Court had directed the Railways to regularise the workman who were kept in service for a temporary daily wage basis for more than six months, the workman who has completed six month’s service does not become entitled to the appointment. Here the workman, was not duly qualified for the appointment.

24. The reference is, therefore, answered as follows :—

The action of the management of Doordarshan, Akola, in terminating the services of Shri Sundakar Motiram Bijew, Casual Driver at Doordarshan Kendra, Amravati, w.e.f. 31-3-1985 is legal and justified. The workman is not entitled to any relief. No order as to costs.

Awarded accordingly.

V. N. SHUKLA, Presiding Officer
[No. L-42012/60/86.D.II(B)]

नई दिल्ली, 21 मार्च, 1990

का.अ. 897 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेट्टल रेलवे, जबलपुर के प्रबन्धमन्त्र से संबद्ध नियंत्रकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधि-करण, जबलपुर के पंचपट का प्रकाशित करती है, जो केन्द्रीय सरकार का 14 मार्च, 90 को प्राप्त हुआ था।

[सं एल-41012/74/86-डी-2 (का)]

New Delhi, the 21st March, 1990

S.O. 897.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (4 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Central Railway, Jabalpur and their workmen, which was received by the Central Government on 14-3-90.

[No. L-41012/74/86-DII(B)]

ANNEXURE

BEFORE SHRI V. N. SHUKLA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (M.P.)

CASE NO. CGIT/LC(B)(220)/1987

PARTIES :

Employers in relation to the management of Divisional Railway Manager, Central Railway, Jabalpur and their workman Shri Joseph Masih John S/o Shri Asharam, Ex-Call Boy, Loco Shed Central Railway, Jabalpur C/o Sectaram Cycle Mart, Ghampur Chowk, Jabalpur (M.P.)

APPEARANCES :

For Workmen—Shri R. Menon, Advocate.

For Management—Shri P.D. Pathak, Advocate.

INDUSTRY : Railway; DISTRICT : Jabalpur (M.P.)

AWARD

Dated March 2nd, 1990

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-41012/74/86-D. II(B) Dated 20th October, 1987 for adjudication of the following dispute :—

“Whether the action of the management of Central Railway, Jabalpur in terminating Shri Joseph Masih John S/o Shri Asharam, ex call boy, Loco Shed Jabalpur from service with effect from 10-6-86 is legal and justified ? If not, to what relief is the concerned workman entitled ?”

2. Undisputed facts of this case are that Shri Joseph Masih John was working as a Call Boy under the

Loco Foreman, Central Railway, Jabalpur. He was appointed on 13-9-1979. It is also not disputed that the services of the workman were terminated with effect from 10-6-1986 after the charge-sheet and enquiry. It is also not disputed that the workman was absent from duties for certain period.

3. According to the workman, due to his illness he was on sick leave during May 1936 and was under treatment in the Railway Hospital at Jabalpur. In the mean while, a charge-sheet was issued against him on 18th December, 1985 for his unauthorised absence for the period specified in the charge-sheet. The workman was declared fit on 17-5-1986 and he resumed his duties with effect from 17-5-1986. He was informed that a departmental enquiry has been ordered against him. The workman was not notified of the appointment of Enquiry Officer, he was not given proper opportunity to submit his reply to the charge-sheet, the Enquiry Officer without giving an information regarding the date of hearing called the workman on 17-5-1986 and completed the enquiry on the same date. No Presenting Officer was appointed. The workman was not given an opportunity appoint any defence counsel. The Enquiry Officer applied pressure on the workman to confess his guilt. He was also threatened that the matter is very simple and a lenient view will be taken. The workman obviously could not attend his duty due to illness and it was accepted by the Enquiry Officer himself that the workman had submitted leave application on 10-1-1985 and again on 22-3-1985. His sickness from 24-6-1985 to 26-6-1985 was accepted as per Medical Certificate. He also accepted that the workman was sick from 9-7-1985 to 27-7-1985 for which Medical Certificate was issued from the Railway Hospital and was submitted by the workman with the department. He had filed certificate of sickness from 5-8-1985 to 11-8-1985. He was on leave from 13-8-1985 to 16-8-1985 for which leave application was given. Though according to the charge-sheet he said to have been absent unauthorisedly for 49 days but according to the Enquiry Officer the period of absence comes to 45 days. It was, however, held that he absented himself from duty and therefore vide order dated 29-5-1986 his services were terminated with effect from 10-6-1986. An appeal was preferred but that too was rejected. The findings of the Enquiry Officer are perverse. Punishment imposed is harsh. The order being against the principles of natural justice and having been passed in violation of the law which resulted in miscarriage of justice. He has a good service in past and he is entitled to be reinstated with full back wages.

4. According to the management, the enquiry was properly held and the workman was found guilty of remaining absent for 45 days without permission. He was properly charge-sheeted. Sufficient opportunity was given to him and there is no violation of any rule or the principles of natural justice. If this Tribunal comes to a finding that the enquiry is not legal and proper, the management be given permission to prove the charges against the workman. Prayer is, therefore, liable to be rejected.

5. Following issues were framed by my learned predecessor and my findings are recorded against each :

- | | |
|--|--|
| 1. Whether the domestic/departmental enquiry is proper and legal? | Yes. |
| 2. Whether the punishment awarded is proper and legal? | Punishment is though legal but not proper. |
| 3. Whether the management is entitled to lead evidence before this Tribunal ? | Yes. |
| 4. Whether the termination/action taken against the workman is justified on the facts of the case? | Not justified on the facts of this case. |
| 5. Relief and costs? | As per Award/Order. |

Reasons for my Findings :

6. Issue No. 1 : During the course of the arguments the validity of the departmental enquiry was not challenged. That apart, the D.E. file which has been admitted on behalf of the workman shows that not only he was given proper opportunity but also he admitted the charges against him. This finds place at pages 19 and 20 of the D.E. file.

7. From the material on record of the D.E. file shows that the workman absented himself for 49 days but 4 days were excluded because he was permitted to appear from 11-9-1985 to 14-9-1985 to attend Scouters/Guiders Seminar as per page 15 of the D.E. file.

8. Thus not only the enquiry was made in accordance with law but it has been established from the evidence on record of the D.E. file that the workman absented himself for 45 days as detailed in the charge-sheet which is at page 19 of the D.E. file. No sick leave was placed on record to show that he was on sick leave during alleged days.

9. I, therefore, hold that the departmental enquiry was proper and legal.

10. Issue No. 3 : Having sought an opportunity to lead evidence in the written statement by the management to the effect that in case this Tribunal comes to a conclusion that the D.E. is not proper for any reason whatsoever, the management be permitted to lead evidence in this regard. Therefore, the management is entitled to lead evidence before this Tribunal. I give my finding accordingly.

11. Issues No. 2, 4 & 5.—Now only the question is whether the punishment awarded is proper and legal. The workman was in service since 13-9-1979 and his unauthorised absence has been recorded from 10-1-1985 onwards. Thus obviously the applicant workman had not bad record from 13-9-1979 to 10-1-1985. He unauthorisedly absented himself for

45 days between 10-1-1985 to 15-9-1985 on different dates as shown at page 19 of the D.E. file. The punishment awarded to the workman does not appear to be proportionate to the misconduct done by him. Though it cannot be said that the punishment awarded was not legal but it can certainly be said that the punishment was not proper. It was rather harsh. Thus the termination action against the workman cannot be justified on the facts of this case. The workman is a poor man. According to him, he was sick and he is placing great problems due to unemployment. I feel that he should be given an opportunity to improve himself. I may add that he has already suffered sufficiently for his misconduct. I am, therefore, inclined to modify the order of the management and instead I pass the order that he should be reinstated from the date of the order of dismissal/termination. He shall not be entitled to wages for the period of his absence i.e. from the date of dismissal to 1-3-90. This period shall not be considered for his seniority. This period shall, however, be treated as service period for other purposes. I think that this is a sufficient punishment for misconduct.

12. My findings are, therefore, recorded as follows :—

- (1) The domestic/department enquiry is proper and legal.
- (2) The punishment awarded is though legal but not proper.
- (3) The management is entitled to lead evidence before this Tribunal.
- (4) Termination/action taken against the workman is not justified on the facts of this case.
- (5) He is entitled to be reinstated with continuity of service but he shall not be entitled to the wages from the date of termination till today. He shall also not be entitled to the consequential benefits arising out of this order. His services shall be counted for other purposes.

13. Reference is, therefore, as under :—

The action of the management of Central Railway, Jabalpur in terminating Shri Joseph Masih John S/o Shri Asharam, ex coll boy, Loco Shed Jabalpur from service with effect from 10-6-1986 is though legal but not justified on facts of the case. He is entitled to be reinstated with effect from 10-6-1986 with continuity of service but without back wages and consequential benefits till the date of this order. However, his services shall be counted for other purpose. No order as to costs.

Awarded accordingly.

V. N. SHUKLA, Presiding Officer
[No. I-41012/74/86-D.II(B)]
HARI SINGH, Desk Officer.